



**Small Business  
Finance Center**

CALIFORNIA INFRASTRUCTURE AND  
ECONOMIC DEVELOPMENT BANK



## **Small Business Loan Guarantee Program**

# **Financial Development Corporation Policy Manual**

*Latest Revision May 2016*



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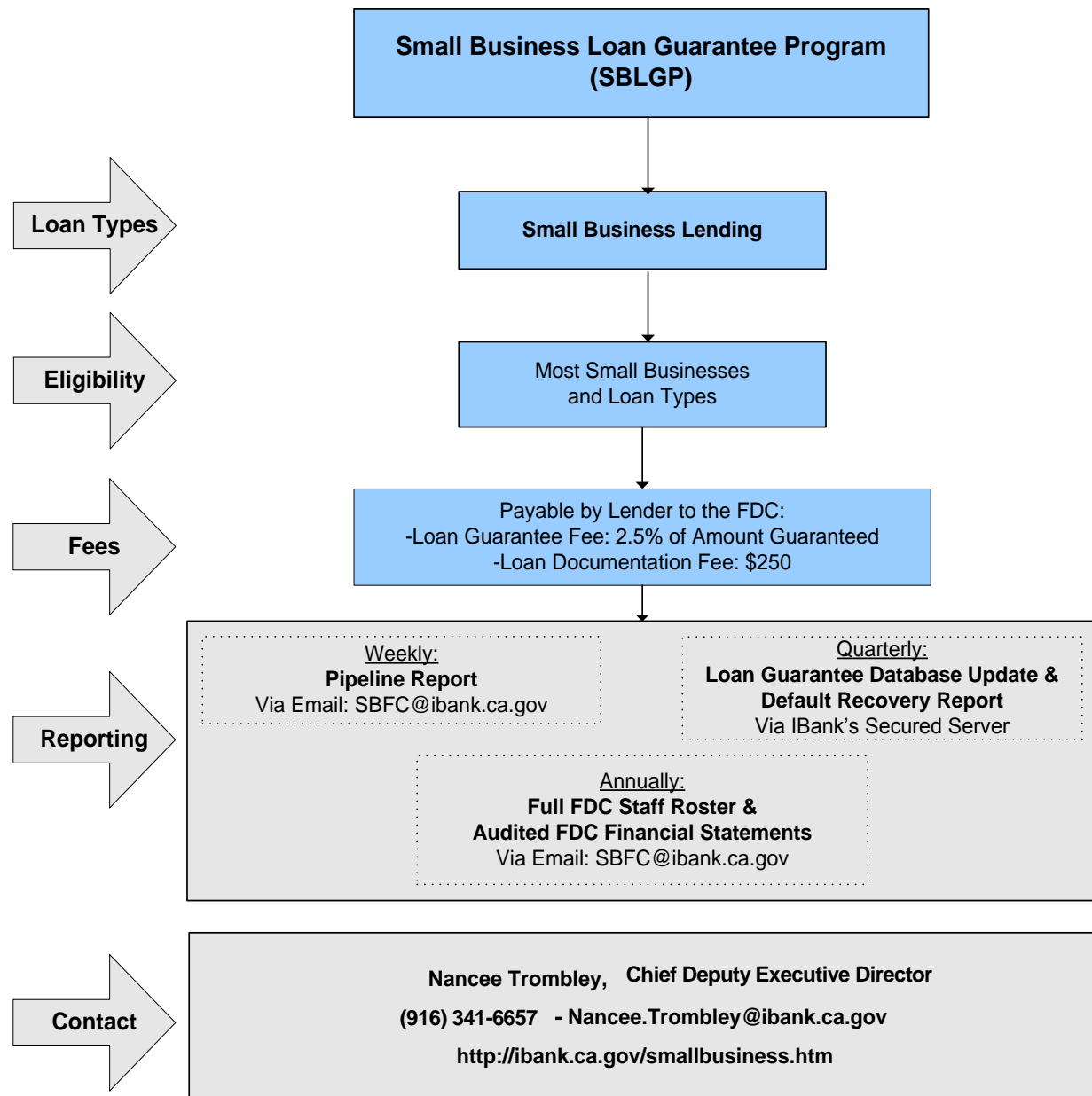
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## I. AT-A-GLANCE

This Small Business Loan Guarantee Program (SBLGP) Financial Development Corporation (FDC) Policy Manual provides instructions, examples, and directives for enrolling small business loans and filing claims.

FDCs are expected to use this manual as a guide and to frequently visit IBank's SBLGP website at <http://ibank.ca.gov/smallbusiness.htm> for the most current version of the manual, updated forms, and latest directives and requirements. FDCs should also ensure IBank is kept informed of changes to the FDC's primary SBLGP contact information.



## II. PROGRAM PARTICIPATION REQUIREMENTS

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### A. Overview

The Small Business Loan Guarantee Program (SBLGP) encourages banks and other financial institutions to make loans to small businesses that have difficulty obtaining financing. By participating in the SBLGP, lenders are provided up to 80% coverage on guaranteed loan defaults.

	Small Business Lending
<b>Business Requirements</b>  ☞ Full Text of IBank's SBLGP Directives & Requirements can be found in Chapter VIII.	<ul style="list-style-type: none"><li>▪ \$20M max. loan amount per business</li><li>▪ \$2.5M max. loan guarantee liability per business</li><li>▪ 750 employees or fewer</li><li>▪ Loan proceeds must be used in the State of California</li></ul>
<b>Authorized Loan Types or Uses</b>  ☞ Full Text of IBank's SBLGP Directives & Requirements can be found in Chapter VIII.	Permissible use of loan proceeds may include: <ul style="list-style-type: none"><li>▪ Bridge Loans</li><li>▪ Building Purchase</li><li>▪ Business Procurement</li><li>▪ Construction (new)</li><li>▪ Equipment Purchase</li><li>▪ Inventory</li><li>▪ Start-Up Costs</li><li>▪ Tenant Improvements</li><li>▪ Working Capital</li></ul>



Whether State or Federal, FDCs must submit a “Conditional Approval Request” (CAR) to IBank for enrolling a loan into the SBLGP **before** the loan is made.

- ☞ The “Conditional Approval Request” can be submitted through the IBank online application system at: <http://applications.ibank.ca.gov>.

## B. Small Business Lending

The Small Business Loan Guarantee Program offers lenders a mechanism to provide loans to small businesses that may otherwise not be able to obtain a loan under conventional underwriting. With SBLGP, lenders are able to cover portions of loans that exceed the risk threshold normally set for business loans.






Almost any business loan is eligible under SBLGP, with few exceptions noted below. Loans can be used to finance the acquisition of land, construction or renovation of buildings, the purchase of equipment, other capital projects and working capital, tenant improvements, franchise fees, and other start-up costs.



There are limitations on passive real estate investments. Other prohibited uses of loan proceeds include but are not limited to lobbying activities, repayment of delinquent federal or state income taxes, reimbursement of funds owed to any owner including equity injections or injection of capital for the business' continuance. Also, enrolling in more than one government enhanced program with the same loan or same loan purpose is prohibited.



Refer to Chapter VI for more examples of eligible and non-eligible small business types and loan purposes.

Flexibility	Restrictions
<ul style="list-style-type: none"> <li>▪ FDCs decide which loans to enroll into SBLGP.</li> <li>▪ Loans can be term loans or lines-of-credit, short- or long-term, have fixed or variable rates, be secured or unsecured, and bear any type of amortization schedule.</li> <li>▪ FDCs can guarantee any eligible loan up to 80% of the loan amount.</li> <li>▪ Eligible loan guarantees from non-profit borrowers are allowed.</li> </ul>	<ul style="list-style-type: none"> <li>▪ \$20 million maximum loan amount per business.</li> <li>▪ \$2.5 million maximum loan guarantee amount per business.</li> <li>▪ Guarantee is for a maximum of seven years from the time of the promissory note although the loan term can be longer.</li> <li>▪ The business activity resulting from the bank's loan must be created and retained in California.</li> <li>▪ The borrower's business must be in one of the industries listed in the North American Industry Classification System (NAICS) codes list.   NAICS: <a href="http://www.census.gov/eos/www/naics">http://www.census.gov/eos/www/naics</a></li> <li>  The small business must be classified as a small business under U.S. Small Business Administration guidelines (Title 13 of the Code of Federal Regulations) and have 750 or fewer employees.   U.S. Small Business Administration Guidelines: <a href="http://www.ecfr.gov">http://www.ecfr.gov</a> (Select Title 13 from Drop-Down Menu) </li> </ul>

### III. ENROLLING A LENDER

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#### A. Overview

To participate under the SBLGP and maintain a lender/guarantor relationship with FDCs, a Financial Institution (Lender) must first certify that it is in possession of sufficient commercial lending experience, financial and managerial capacity, and operational skills by completing a Lender Certificate to Participate and be enrolled into the program.

A Financial Institution can apply by accessing a Lender Certificate to Participate through the IBank application portal at <http://applications.ibank.ca.gov> to request enrollment to the SBLGP.

The certification will be reviewed by IBank. The Lender will be evaluated using reports from regulatory agencies. There may be no regulatory action against the Lender. If a Lender does not meet the standards, the request to participate will be declined. If approved, the Lender must submit a Certification to Participate on an annual basis to IBank. The Certifications will be reviewed quarterly for continued eligibility.



In the case that the lender does not want to sign the Lender Certification to Participate for the SSBCI program, the lender will not be able to participate in the Federal **or State** program until all SSBCI funds received by IBank have been used at least once by or soon after March 31, 2017.

#### 1. **Examples of Eligible Financial Institutions**

The following lenders are eligible to participate in the SBLGP:

- ✓ Federal or State-chartered Bank
- ✓ Savings Association

- ✓ Certified Community Development Financial Institutions (CDFI)
- ✓ Credit Union

*Note: Eligible financial institutions must be in good standing with regulatory body (Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Comptroller of Currency, Thrift Supervision, National Credit Union Administration (NCUA), or state banking authority). [http://www.dbo.ca.gov/Licensees/licensee\\_search.asp](http://www.dbo.ca.gov/Licensees/licensee_search.asp)*

#### 2. **Examples of Non-Eligible Lenders**

Examples of lenders that do not qualify to participate include but may not be limited to finance companies, brokers, most on-line lenders, pay-day lenders, and private party lenders.

## IV. ENROLLING A LOAN GUARANTEE

### A. Overview

FDCs must **submit** to IBank the following fully completed, signed, and dated forms and documentation with each guarantee enrollment request:



Final guarantee documents must be received at IBank within 10 business days of the guarantee signed by the FDC and Lender.

	Submit to IBank:	
	With Enrollment Request	After Guarantee is Made
<b>Required</b>		
1. Conditional Approval Request (CAR) ☞ <a href="http://applications.ibank.ca.gov">http://applications.ibank.ca.gov</a>	√	
2. Lender Credit Memo	√	
3. FDC Loan Write-Up *	√	
4. Lender Use of Proceeds & Sex Offender Certification ☞ <a href="http://ibank.ca.gov/fdc_forms.htm">http://ibank.ca.gov/fdc_forms.htm</a>	√	
5. Borrower Use of Proceeds Certification ☞ <a href="http://ibank.ca.gov/fdc_forms.htm">http://ibank.ca.gov/fdc_forms.htm</a>	√	
6. Borrower (and Guarantor, if applicable) Sex Offender Certification(s) ☞ <a href="http://ibank.ca.gov/fdc_forms.htm">http://ibank.ca.gov/fdc_forms.htm</a>	√	
7. Promissory Note		√
8. Lender Disbursement Schedule**		√
9. Commitment Letter		√
10. Guarantee Agreement		√
11. Default Procedure		√
12. FDC Loan Committee Meeting Minutes		√
13. Board Approval Meeting Minutes		√
<b>If Applicable</b>		
14. FDC Peer Review Committee Guarantee Approval Minutes ☞ Only for Guarantees where the guarantee amount is equal or greater than \$1M.		√
15. Lease Agreement for Eligible Passive Real Estate Transactions		√

\* not required for microloans as defined in the Directives and Requirements

\*\*For term loans or lines of credit that the original disbursement authorization is “undisbursed”, follow-up disbursement documentation must be collected and retained at the FDC. This information will be required at the time a claim is made against the guarantee and must be available when requested by IBank or authorized auditors. Term loans require documentation for all disbursements, while lines of credit require documentation of the first disbursement. (revised August 19, 2015)





SBLGP enrollment and final guarantee documents should be sent to IBank through the IBank online application portal at the following address: <http://applications.ibank.ca.gov>.

## **B. Small Business Loan Guarantee Enrollment Request**

Before submitting a SBLGP loan guarantee enrollment request, FDCs should ensure the following pertinent documentation is fully completed:

- ✓ IBank SBLGP Conditional Approval Request (CAR)
- ✓ Lender Credit Memo and FDC Loan Write-Up\*
- ✓ Lender Certifications
- ✓ Borrower Certifications

Lender Credit Memo or FDC Write-up must contain the ownership structure of the business and percentage of ownership; and the same for guarantors that are business entities. Owner names and percentage of ownership should be included in the FDC and/or lender credit memo to assist IBank in determining if certifications were signed by the proper individuals.

For allowable ownership structure, refer to Examples of Eligible and Non-Eligible Small Business Structures in Chapter VI.

Real estate transactions for purchase, construction, renovation or tenant improvements is an eligible business use of funds if it meets the following criteria:

<b>State</b>	<b>Federal</b>
<ul style="list-style-type: none"><li>✓ Funds used for passive real estate, if the borrower certifies the property is used in connection with the borrower's business receiving the loan guarantee and not strictly for investment purposes: no specific percentage will be required.</li><li>✓ Lease agreements must be provided.</li><li>✓ All passive real estate transactions must be approved by the IBank Chief Deputy Executive Director or the Executive Director.</li></ul>	<ul style="list-style-type: none"><li>✓ Funds used for construction of new building: small business must occupy and use no less than 60% of the total rentable property; or</li><li>✓ Funds used for acquisition, renovation of an existing building: small business must occupy and use no less than 51% of the total rentable property.</li><li>✓ Lease agreements must be provided.</li></ul>



The Lender Credit Memo or the FDC Write-up must indicate the percentage of occupancy, whether it be partial or fully occupied by the business borrower. If not eligible passive real estate, documentation of percentage use can include an appraisal or equivalent, or a lease agreement. The term of the lease must be at least the term of the guarantee, including the option to renew.

IBank SBLGP Directives & Requirements require FDCs to obtain various assurances from the borrower and lender related to the eligibility of the borrower's business and purpose of the loan proceeds as well as sex offender status.



Examples of lender and borrower certification forms can be found in Chapter VII of this manual. The most recent downloadable versions are published on IBank's SBLGP website at [http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm).

Copies of these documents (with the exception of the Lease which can be provided at the final stage) must be submitted to IBank with the Conditional Approval Request. The original documents must be maintained by the FDC with the borrower's loan file and made available to IBank for review upon request.

\* FDC Loan Write-up not required for a microloan

## B.1. Instructions for Completing the SBLGP Conditional Approval Request (CAR)

This section provides instructions for FDCs on how to complete the SBLGP Conditional Approval Request (CAR), which is the primary initial information needed from FDCs to enroll a loan guarantee with the SBLGP.

### Form 1: SBLGP Conditional Approval Request (CAR)

General Information Requested Section	
<div><div>1</div><div>Conditional Approval Request</div></div>	
<div><div>General Information Requested</div><div><div>Date Submitted</div><div>X/X/20XX</div></div><div><div>FDC Name</div><div>FDC Name</div></div><div><div>Lender Name</div><div></div></div><div><div>Borrower Business Name</div><div></div></div><div><div>Business Structure</div><div></div></div><div><div>FDC IBank Loan #</div><div></div></div><div><div>Term or Line-of-Credit</div><div></div></div><div><div>Loan or Line-of-Credit Amount</div><div></div></div><div><div>Guarantee % Requested</div><div></div></div><div><div>Guarantee Amount Requested</div><div>\$0</div></div><div>Peer review required if amount is \$1,000,000 or more</div></div>	

	✓
▪ Lender Name	✓ Name of Lender making the loan (Dropdown Box)
▪ Borrower Business Name	✓ Name of business requesting the loan & DBA, if applicable.
▪ Business Structure	✓ Dropdown box to choose sole proprietorship, partnership, limited liability company, or corporation.
▪ FDC IBank Loan # (for Database)	✓ List the unique IBank loan number associated with the borrower's loan and begins with the FDC's prefix, followed by the loan number. ☞ This is <b>not</b> the lender's loan number.
▪ Term or Line-of-Credit	✓ Dropdown to choose term loan or line-of-credit.
▪ Loan or Line-of-Credit Amount	✓ List the full amount of the term loan or line-of-credit not to exceed \$20 million.
▪ Guarantee % Requested	✓ List the desired guarantee <i>percentage</i> . ☞ The guarantee percentage input here will automatically calculate the guarantee amount in the field below. ☞ The guarantee percentage cannot exceed 80% of the loan.
▪ Guarantee Amount Requested	✓ This amount is automatically calculated. This is the original Guarantee Amount. ☞ The guarantee amount cannot exceed 80% of the loan amount or \$2.5 million.

#### Additional Borrower & Loan Information Section

Additional Borrower & Loan Information	
Zip Code (where funds will be used)	<input type="text"/>
Annual Revenues (last fiscal year)	<input type="text"/>
# of Jobs Created	<input type="text"/>
NAICS Code	<input type="text"/>
Business Activity	<input type="text"/>
Concurrent Private Financing Amount	<input type="text"/>
Year Business Incorporated	<input type="text"/>

Full Time Equivalents (FTEs)	<input type="text"/>
# of Jobs Retained	<input type="text"/>
Census Tract #	<input type="text"/>

Field:	Information Needed:
▪ Zip Code (where funds will be used)	✓ List the zip code where the proceeds of the loan are being used.
▪ Year Business Incorporated or Opened	✓ 4-digit year the business was incorporated, opened, or was taken over by the borrower. ☞ If the business is a start-up, list the current year.
▪ Annual Revenues (last fiscal year)	✓ List the borrower's annual business revenues for the last fiscal year—rounded to the nearest whole dollar amount. ☞ If the business is a start-up, use the current income or \$0.
▪ Full Time Equivalents (FTEs)	✓ Number of full time equivalent (FTE) employees of the business—rounded to the nearest whole number. Must be a minimum of 1 and cannot exceed 750. ☞ Refer to the FDC Tools & Tips in Chapter VI for instructions on how to report the number of FTEs.
▪ # of Jobs Created	✓ Number of jobs created for the business as a result of the loan. ☞ Count each person, full or part time. ☞ If jobs are not created as a result of the loan, use "0". ☞ If enrolling multiple loans for a business, only enter information for first enrolled loan.
▪ # of Jobs Retained	✓ Number of jobs retained for the business as a result of the loan. ☞ Count each person, full or part time. ☞ If jobs are not retained as a result of the loan, use "0". ☞ If enrolling multiple loans for a business, only enter information for first enrolled loan.
▪ NAICS Code	✓ Six digit number used by the North American Industry Classification System (NAICS) to categorize business types. ☞ <a href="http://www.census.gov/eos/www/naics/">http://www.census.gov/eos/www/naics/</a>

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## North American Industry Classification System

**Main** | **History** | **Development Partners** | **Federal Register Notices** | **NAPCS** | **FAQs**

**NAICS Search:**

Enter keyword or 2-6 digit code

2012 NAICS Search

Enter keyword or 2-6 digit code

2007 NAICS Search

Enter keyword or 2-6 digit code

2002 NAICS Search

**Downloads/Reference Files/Tools**

- 2012 NAICS
- 2007 NAICS
- 2002 NAICS
- 1997 NAICS
- Concordances
- NAICS Update Process Fact Sheet [PDF, 37KB]

**Contact Us**

Email Us: [naics@census.gov](mailto:naics@census.gov)

### 2012 NAICS Key Word Search

**Search results for: Farm Equipment**  
Number of records found: 9

- 333111 Feed processing equipment, farm-type, manufacturing
- 333111 Drags, farm-type equipment, manufacturing
- 423820 Planting machinery and equipment, farm-type, merchant wholesalers
- 423820 Farm machinery and equipment merchant wholesalers
- 423820 Conveying equipment, farm, merchant wholesalers
- 423830 Conveying equipment (except farm) merchant wholesalers
- 532490 Farm equipment rental or leasing
- 811310 Tractor, farm or construction equipment repair and maintenance services
- 811310 Farm machinery and equipment repair and maintenance services

**Step 1: Enter business activity type (e.g. Farm Equipment)**

**Step 2: Select 6-digit code that best describes the business activity**

Field:	Information Needed:
<ul style="list-style-type: none"> <li>Census Tract #</li> </ul>	<ul style="list-style-type: none"> <li>✓ 11-digit number (<b>no decimal point</b>) used to identify the specific location of a business to provide more reporting consistency and uniformity.</li> <li><a href="http://www.ffiec.gov/Geocode/default.aspx">http://www.ffiec.gov/Geocode/default.aspx</a></li> </ul>

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Year: 2015 Address: 1325 J Street, Suite 1823 Sacramento, CA 95814

Search Reset Print

**Matched Address**

Address	
MSA/MC Code	
State Code	
County Code	
Tract Code	
MSA/MC Name	
State Name	
County Name	

Census Demographic Data

☐ User Select Tract

### Geocoding System

The FFIEC Geocoding/Mapping System (System) helps financial institutions meet their legal requirement to report information on mortgage, business, and farm loan applications. Geocoding refers to the Metropolitan Statistical Area/Metropolitan Division (MSA/MC), State, County, Census Tract combination (address information) that must be provided for each reported loan application and the System allows institutions to enter a street address to determine the corresponding geocode. The System also provides Census demographic information about a particular census tract, including income, population, and housing data.

Please select the appropriate activity year for the address being geocoded. The tract definitions for 2013, 2014, and 2015 data are based on the 2010 Census. It is critical that the correct activity year is selected when using the FFIEC Geocoding System.

[Census Updates](#)

**Input the borrower's business address and click the "Search" button**





## How Funds Will Be Used Section

### How Funds Will Be Used

Program

### Eligible Use of Proceeds (select at least one)

- ☐ Bridge Loan
- ☐ Building Purchase
- ☐ Business Procurement
- ☐ Construction (New)
- ☐ Equipment Purchase
- ☐ Inventory
- ☐ Start-up Costs
- ☐ Tenant Improvements
- ☐ Working Capital

### Same Bank Refinance (Not already enrolled)

- ☐ Is there advancement of new money?
- ☐ Is there new underwriting?
- ☐ Not just refinancing to refinance.
- ☐ Has the loan matured?

Loan Maturity Date  
(if applicable)



### Same Bank Refinance (Already enrolled)

☐ Is there new underwriting?

☐ Are the lender and borrower(s) signing new certifications?

☐ Will new loan documents be signed?

☐ Will a new Guarantee be issued?

Prior SSBCI Loan  
# (if applicable)

Prior SSBCI Loan  
# (if applicable)

Prior SSBCI Loan  
# (if applicable)

Prior SSBCI Loan  
# (if applicable)

Prior SSBCI Loan  
# (if applicable)

Prior SSBCI Loan  
# (if applicable)

### Different Bank Loan Refinance

☐ Was the use of proceeds on the original loan SSBCI eligible?

☐ Is there documentation to demonstrate the eligible use of proceeds on the original loan?

☐ Does the FDC Write-Up explain how the refinance benefits the borrower?

#### Field:

#### Information Needed:

▪ Program

✓ Indicate whether the loan will be guaranteed under the federal or state loan guarantee program.

▪ Eligible Use of Proceeds

✓ Choose the use of proceeds option from the drop-down menu that best describes the use of loan funds.

	<p>☞ If funds are used for more than one category, select all that apply.</p>
<p>▪ <u>Same Bank Refinance</u> (Not already enrolled in SSBCI.)</p> <p><input type="checkbox"/> Is there advancement of new money?</p> <p><input type="checkbox"/> Is there new underwriting?</p> <p><input type="checkbox"/> Has the loan matured? Date:</p> <p><input type="checkbox"/> Not just refinancing to refinance.</p>	<p>☞ This is applicable for a refinance of an existing loan with the same lender <b>and</b> a new enrollment of the refinanced loan into SSBCI. The loan should not have been previously enrolled in SSBCI.</p> <p>✓ Check if the refinance increases the amount of the loan or line-of-credit available to the borrower (required).</p> <p>✓ Check if new underwriting occurred for the refinanced loan or line-of-credit (required).</p> <p>✓ Check if the original loan or line-of-credit matured (required). If checked, also provide the maturity date.</p> <p>✓ Check if the sole purpose of the refinance is not refinancing debt with the same lender.</p> <p>☞ The credit memo should indicate the reason for the refinance and benefit to the borrower.</p>
<p>▪ <u>Same Bank Refinance</u> (Already enrolled in SSBCI.)</p> <p><input type="checkbox"/> Is there new underwriting?</p> <p><input type="checkbox"/> Are the lender and borrower(s) signing new certifications?</p> <p><input type="checkbox"/> Will new loan documents be signed?</p> <p><input type="checkbox"/> Will a new Guarantee be issued? If yes, provide prior SSBCI Loan #.</p>	<p>☞ This is applicable for a refinance of an existing loan that is already enrolled in SSBCI with the same lender such as a renewal of a line-of-credit.</p> <p>✓ Check if new underwriting occurred for the refinanced loan or line-of-credit (required).</p> <p>✓ Check if new lender and borrower certifications were signed for the refinanced loan or line-of-credit (required).</p> <p>✓ Check if the refinance requires the issuance of new lender loan documents such as promissory note (required).</p> <p>✓ Check if the refinance will be issued as a new guarantee under the SSBCI program (required). If checked, provide the prior SSBCI loan number(s) associated with this refinance.</p> <p>☞ The credit memo should indicate the reason for the refinance and benefit to the borrower.</p>
<p>▪ <u>Different Bank Loan Refinance</u></p> <p><input type="checkbox"/> Was the use of proceeds on the original loan SSBCI eligible?</p> <p><input type="checkbox"/> Is there documentation to demonstrate the eligible use of proceeds on the original loan?</p>	<p>☞ This is applicable for a refinance of a loan from a different lender <b>and</b> a new enrollment of the refinanced loan into SSBCI.</p> <p>✓ Check if the original loan made by the former lender was for an eligible SSBCI purpose and that the former Lender would have been an eligible Lending entity.</p> <p>☞ Refer to Chapter VI for examples of eligible loan proceeds.</p> <p>✓ Check if documentation is available to support the original use of funds.</p> <p>☞ Original use of funds documentation, other than credit card refinances, must be provided to IBank upon request.</p> <p>☞ For credit card refinances, credit card statements must be submitted to IBank as part of the enrollment request.</p> <p>Statements must detail purchase transactions and cannot contain any purchase of personal nature. <i>IBank is making the final determination on reasonableness of credit card transactions and will only allow this in the State program..</i></p>

☐ Does the FDC Write-Up explain how the refinance benefits the borrower?

✓ Check if the FDC Write-Up for the guarantee describes how the refinance benefits the borrower.

☞ The credit memo should indicate the reason for the refinance and benefit to the borrower.



All refinances require a written benefit to the borrower.

## B.2. Borrower Sex Offender Certification Signature Requirements

This section provides guidelines for FDCs to ensure all required borrowers are signing sex offender certifications. FDCs should share this information with the lenders and verify lender guarantee enrollment submission contain the complete borrower sex offender certifications.

A copy of the Borrower Sex Offender Certification can be found in Chapter VII of this manual. However, FDCs should always check IBank's website for the most current version:  
[http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm)

Example	Business Ownership	Loan Guarantor(s)	Certification Required for
Situation: Sole business owner is also only guarantor on the loan.  Certification required for sole business owner.	<b>1 Owner</b>  100%	 100%	 100%
Situation: Sole business owner but loan is co-signed by one or more guarantor(s) with no ownership interest in the business.  Certifications required for sole business owner and <u>all</u> guarantors.	<b>1 Owner</b>  100%	100% 0%	100% <b>and</b> 0%
Situation: Multiple business owners with varying ownership interests and all are guarantors on the loan.  Certification required for only one owner who holds an ownership interest of at least 20% and is authorized to represent the business.	<b>Multiple Owners</b>  20% + 30% + 50%	 20% + 30% + 50%	 20% <b>or</b> 30% <b>or</b> 50%
Situation: Multiple business owners with varying ownership interests but loan is co-signed by one owner and one or more guarantor(s) with no ownership interest in the business.  Certifications required for one owner who holds an ownership interest of at least 20% and is authorized to represent the business, and <u>all</u> guarantors.	<b>Multiple Owners</b>  20% + 30% + 50%	30% 0%	20% <b>or</b> 30% <b>or</b> 50% <b>and</b> 0%



Certifications must be completed with the exception of guarantees that include “good will”, “partner buyout” and “reimbursement to an owner” that are not available under the Federal SSBCI program.



IBank recognizes the officers of not-for-profits as the “principals of the small business.” At least one principal must sign the note, sex offender certification, and use of proceeds certification for a non-profit corporation and can represent other principals. IBank recognizes the officers of the nonprofit as the “principals of the small business”. Accordingly, the Executive Director, President, Vice President, Secretary, Treasurer, Chairman of the Board, and all Board Members are “principals” for non-profits.



If the loan purpose is for **eligible passive real estate investment**, refer to VI section 4 of this Manual for further instructions on sex offender certification requirements.

### **B.3. Borrower & Lender Certification Signature Requirements**

This section provides guidelines for FDCs to ensure all required borrowers and lenders are signing use of proceeds and sex offender certifications. FDCs should share this information with the lenders and verify lender guarantee enrollment submission contain the complete borrower and lender use of proceeds and sex offender certifications

Copies of the Lender and Borrower Use of Proceeds and Sex Offender Certifications can be found in Chapter VII of this manual. However, FDCs should always check IBank's website for the most current version: [http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm)

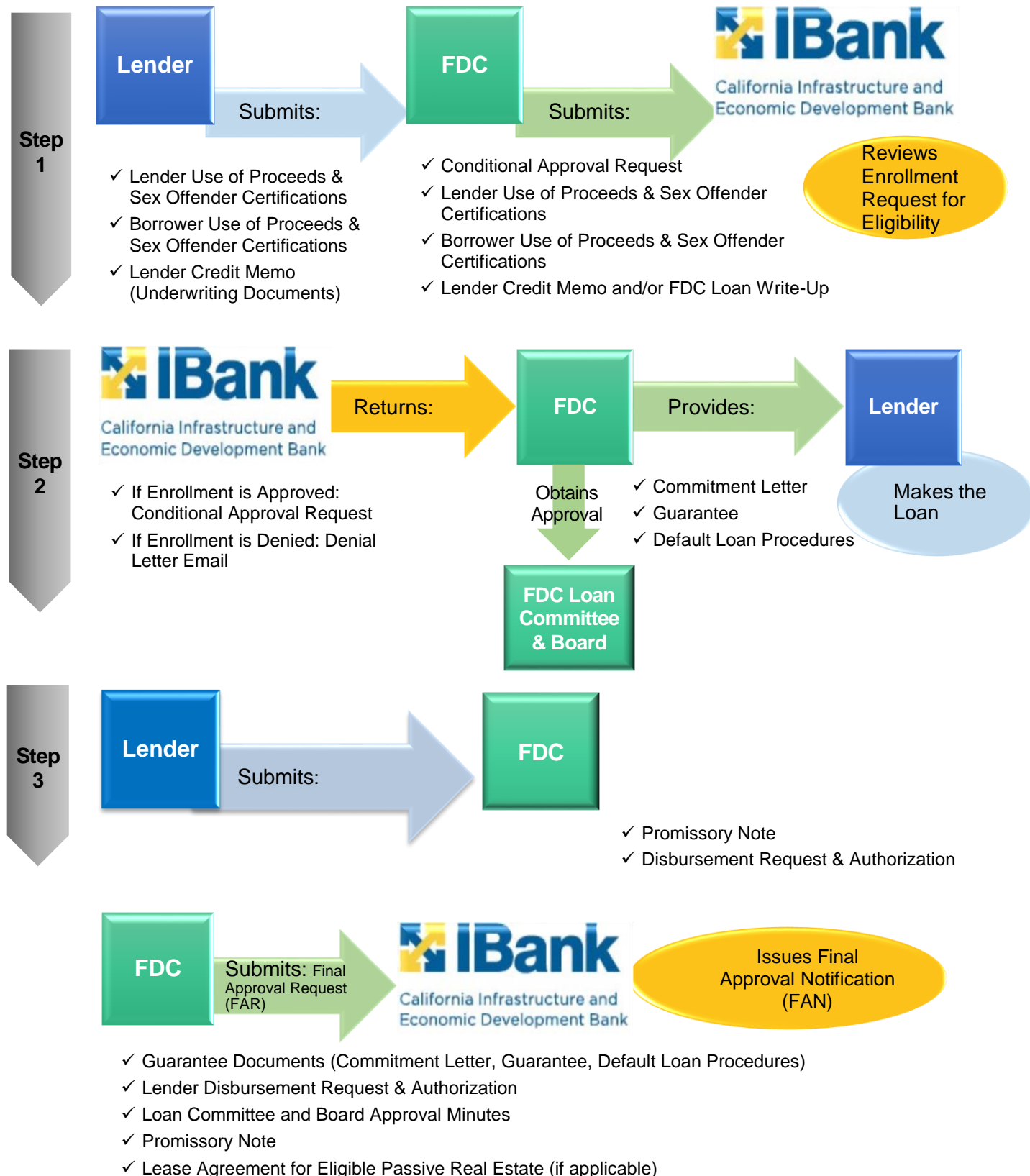
#### **Checklist for Certifications**

- ✓ All Business Owners who signed a sex offender certification must also sign a use of proceeds certification.
  - ☞ **Guarantors** on the loan **without ownership interest** in the business are **not required** to sign use of proceeds certifications; however, they must sign sex offender certifications as illustrated in Section III. B.2 of this Manual.
- ✓ Borrowers and Lenders must sign a **new** use of proceeds and sex offender certifications each time a loan is enrolled into SBLGP. This applies to refinanced loans as well as when two loans (e.g. term loan and line-of-credit) for the same borrower are enrolled at the same time.
  - ⚠ Copies of borrower and lender use of proceeds and sex offender certifications from one loan file to another is not acceptable! IBank will check signatures and dates on the documents received; if discrepancies are identified, guarantees will not be accepted unless or until such issues are resolved.
  - ⚠ Electronic signatures are acceptable. For final approval, IBank requires some type of verification that an electronic signature was authorized by the signing party.
- ✓ All use of proceeds certifications as well as sex offender certifications must be dated at the same time they are signed.



If the loan purpose is for **eligible passive real estate investment**, refer to Chapter VI of this Manual for further instructions on use of proceeds certification requirements.

## B.4. Summary SBLGP Loan Guarantee Enrollment



## V. SUBMITTING A DEMAND ON A GUARANTEE

### A. Overview

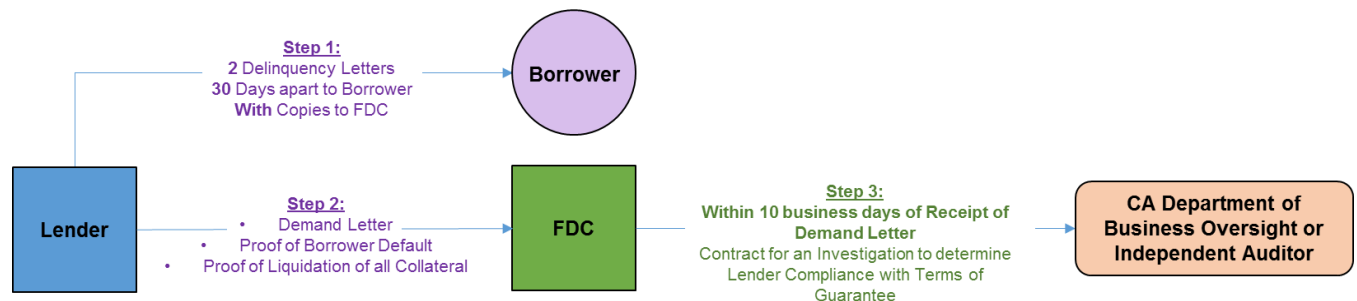
Pursuant to IBank's Demand Procedures as outlined in Section 5003 of IBank's SBLGP Directives & Requirements, lenders are authorized to make a demand upon the FDC for repayment of a defaulted loan's unpaid principal, and interest up to 90 days earned but unpaid.



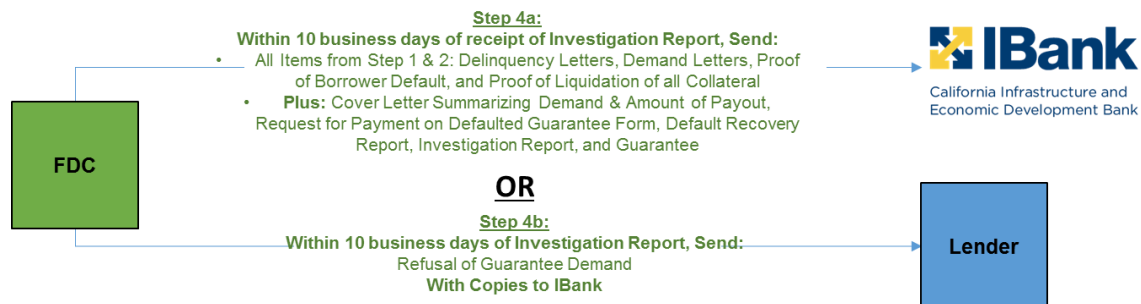
For guarantee demands to be paid by IBank, lenders and FDCs must submit a Request for Payment on Default Guarantee Form to IBank.

☞ See Chapter VII for the Request for Payment on Defaulted Guarantee Form.

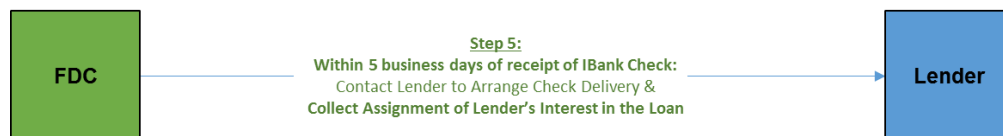
#### Phase I: Upon Lender's Demand on FDC



#### Phase II: Upon FDC Receipt of Investigation Report from California Department of Business Oversight or Independent Auditor



#### Phase III: Upon FDC Receipt of Check from IBank



All Demand Documents should be sent to IBank by email to the following address:  
[SBFC@ibank.ca.gov](mailto:SBFC@ibank.ca.gov).

## **B. Small Business Loan Guarantee Demand Request**

When a guaranteed loan defaults, lenders must submit specific documents to the FDC within timelines prescribed by IBank's SBLGP Directives & Requirements.

### **Checklist for Lender Demand on FDC**

- ☒ 2 Delinquency Letters to Borrower
- ☒ Demand Letter
- ☒ Proof of Borrower Default
- ☒ Proof of Liquidation of all Collateral

⚠ The two lender delinquency letters to the Borrower must be at least 30 days apart and explain the consequences for failure to remedy the delinquency. Copies of the letters must be delivered to the FDC at the same time they are sent to the borrower.

⚠ The demand letter to the FDC must contain a calculation of the unpaid loan principal and interest balance and must be accompanied by evidence of the borrower's default (i.e. loan payment history records).

⚠ For Collection Guarantees, lenders must liquidate all borrower collateral by converting the collateral into cash. Lenders are only exempt from the liquidation requirement if the borrower has filed for bankruptcy or the lender can demonstrate that the collateral is without sufficient value to convert to cash.

⚠ Liquidated collateral must be deducted from the outstanding loan principal balance. Example: Outstanding principal loan balance is \$10,500. Liquidated collateral yields \$5,000. The adjusted principal balance is \$5,500 (\$10,500 minus \$5,000). With a guarantee percentage of 80%, the guaranteed principal amount is \$4,400 (80% of \$5,500). The guaranteed interest amount is calculated based on the outstanding principal loan balance at the time of default and cannot exceed 90 days.

⚠ For term loans, if original disbursement is "undisbursed", follow-up disbursement documentation will be required at the time a claim is made against the guarantee and must be available when requested by IBank for audits.

Similarly, once FDCs are notified of a demand, FDCs must also comply with certain requirements before IBank issues any payments on the defaulted loan.

### **Checklist for FDC Demand on IBank**

- ☒ Demand Cover Letter
- ☒ Investigation Report
- ☒ Request for Payment on Defaulted Guarantee (or Notice to Lender of Refusal of Payment)
- ☒ Initial Default Recovery Report
- ☒ 2 Delinquency Letters
- ☒ Collect Assignment of Lender's Interest in the Loan

⚠ Within 10 business days of receipt of the demand letter from the lender, FDCs must contract with an Independent Auditor or the California Department of Business Oversight to conduct an investigation on whether the lender complied with all terms of the guarantee. The report must address all items described in IBank's SBLGP Directives & Requirements Section 5003(c)(1)-(9).

⚠ Within 10 business days of receipt of the investigation report, FDCs must submit to IBank a request for payment or notify the lender that the

demand has been denied.



- ⚠ FDCs must contact the lender within 5 business day of receipt of the IBank check to make arrangements for delivery of the check. Upon delivery, the FDC must collect an assignment of the lender's interest in the loan including the loan note and all collateral.
- ⚠ Recovery efforts on defaulted loans are the responsibility of the FDCs. FDCs must submit default recovery reports to IBank quarterly. If there is no activity, submit a nil report. (revised May 24, 2016)

### **B.1. Instructions for Completing the Request for Payment on Defaulted Guarantee**

This section provides instructions for FDCs on how to complete the SBLGP Request for Payment on Defaulted Guarantee which is the primary form needed from FDCs to make a demand on a defaulted loan guaranteed under the SBLGP.

A copy of the Request for Payment on Defaulted Guarantee can be found in Chapter VII of this manual. However, FDCs should always check IBank's website for the most current version: [http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm)

#### ***Form 2: Request for Payment on Defaulted Guarantee***

General Information Section																										
<div style="display: flex; align-items: center;"> <div> <b>California Small Business Loan Guarantee Program (SBLGP)</b>  <b>State Small Business Credit Initiative (SSBCI)</b> </div> </div>																										
<b>REQUEST FOR PAYMENT ON DEFAULTED GUARANTEE</b>																										
<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr style="background-color: #d9d9d9;"> <th colspan="3" style="text-align: center; padding: 5px;">General Information</th> </tr> </thead> <tbody> <tr> <td style="width: 40%; padding: 5px;">Date</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">FDC Name</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">FDC Contact Name &amp; Phone #</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">Lender Name</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">Borrower Business Name</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">FDC IBank Loan #</td> <td colspan="2" style="padding: 5px;"><input style="width: 95%;" type="text"/></td> </tr> <tr> <td style="padding: 5px;">Original Loan or LOC Amount</td> <td style="padding: 5px;"><input style="width: 30%;" type="text"/></td> <td style="padding: 5px;">           Guarantee % (as decimal) <input style="width: 20%;" type="text" value="0.0000"/> </td> </tr> </tbody> </table>			General Information			Date	<input style="width: 95%;" type="text"/>		FDC Name	<input style="width: 95%;" type="text"/>		FDC Contact Name & Phone #	<input style="width: 95%;" type="text"/>		Lender Name	<input style="width: 95%;" type="text"/>		Borrower Business Name	<input style="width: 95%;" type="text"/>		FDC IBank Loan #	<input style="width: 95%;" type="text"/>		Original Loan or LOC Amount	<input style="width: 30%;" type="text"/>	Guarantee % (as decimal) <input style="width: 20%;" type="text" value="0.0000"/>
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Original Loan or LOC Amount	<input style="width: 30%;" type="text"/>	Guarantee % (as decimal) <input style="width: 20%;" type="text" value="0.0000"/>																								
<b>Field:</b>	<b>Information Needed:</b>																									
▪ Date	✓ Date default payment form is completed.																									
▪ FDC Name	✓ Name of FDC submitting the default payment request.																									
▪ FDC Contact Name & Phone #	✓ Name and phone number of FDC representative IBank can contact with questions about the default.																									
▪ Lender Name	✓ Name of Lender of defaulted loan.																									
▪ Borrower Business Name	✓ Name of business with defaulted loan.																									
▪ FDC IBank Loan #	✓ Unique IBank loan number associated with the borrower's loan. ☞ This is <b>not</b> the lender's loan number.																									

▪ Original Loan or Line-of-Credit Amount	✓ List the original loan or line-of-credit amount as stated on the promissory note.
▪ Guarantee %	✓ List the original guarantee percentage—how much of the original loan or line-of-credit was guaranteed under the SBLGP.

## Default Calculation Section

Default Calculation			
<b>Outstanding Principal Balance</b>		<b>As of:</b>	
<b>Liquidated Collateral Amount</b> (if applicable)		<b>Adjusted Principal Amount</b> (= Outstanding Principal Balance – Liquidation)	<b>\$ 0.00</b>
<b>Interest Rate</b> (Enter as decimal)	0.0000%	<b>Accrued Interest Amount</b>	<b>\$ 0.00</b>
<b>Interest from/to Dates</b> (90 days or less)		<b># of Days Interest</b> (max. 90 days)	<b>90</b>
<b>OR Interest from/to Dates</b> (if over 90 days enter dates here)			

Field:	Information Needed:
▪ Outstanding Principal Balance	✓ List the outstanding principal amount at the time of default.
▪ As of:	✓ Enter the date that corresponds to the outstanding principal balance.
▪ Liquidated Collateral Amount (if applicable)	✓ List the amount of any collateral the lender was able to convert in cash.
▪ Adjusted Principal Amount	✓ The Adjusted Principal Amount is the amount after deducting any cash recovered from the liquidation of collateral. ☞ Adjusted Principal Amount = Outstanding Principal Balance – Liquidated Collateral Amount.
▪ Interest Rate	✓ Enter the interest rate for the loan or line-of-credit.
▪ Accrued Interest Amount	✓ Enter the accrued interest amount (maximum 90 days)
▪ Interest from/to Dates	✓ List the date range for the accrued interest amount. ☞ The maximum number of days of interest guaranteed is 90 days.
▪ # of Days Interest (max. 90 days)	✓ List the number of days of interest. ☞ The maximum number of days of interest guaranteed is 90 days. This field should equal the “Interest from/to Dates” data.

## Guarantee Amount Requested Section

Guarantee Amount Requested	
<b>Guaranteed Principal Amount</b> (= Adjusted Principal Amount x Guarantee %)	<b>\$ 0.00</b>
<b>Interest Amount Due</b> (=Principal at Default X Interest Rate: Not to exceed 90 days) X Guarantee %	<b>\$ 0.00</b>
<b>Total Guarantee Payment Amount Requested</b>	<b>\$ 0.00</b>

Field:	Information Needed:
▪ Guaranteed Principal Amount	✓ If approved, this is the principal amount IBank will pay the lender for the defaulted loan. ☞ Guaranteed Principal Amount = Adjusted Principal Amount x Guarantee %.
▪ Interest Amount Due	✓ If approved, this is the interest amount IBank will pay the lender for the defaulted loan. ☞ earned and unpaid not to exceed 90 days; reduced by the guarantee percentage (revised June 16, 2015)
▪ Total Guarantee Payment Amount Requested	✓ If approved, this is the amount IBank will pay the lender for the defaulted loan.

## B.2. Instructions for Completing the Default Recovery Report


This section provides instructions for FDCs on how to complete the SBLGP Default Recovery Report which must initially be submitted with the Request for Payment on Defaulted Guarantee Form. The report should also be used to report quarterly default recovery updates, and final recovery efforts to IBank. If there is no activity for the quarter, submit a nil report. (revised June 16, 2015)

A copy of the Default Recovery Report can be found in Chapter VII of this manual. However, FDCs should always check IBank's website for the most current version:  
[http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm)



FDC claimed recovery costs must be accompanied by substantiating documentation such as invoices, receipts, and statements of expenses incurred to be valid and considered by IBank for reimbursement.

### Form 3: Default Recovery Report

General Information Section	
 <b>California Small Business Loan Guarantee Program (SBLGP)</b> <b>State Small Business Credit Initiative (SSBCI)</b>	
<b>QUARTERLY DEFAULT RECOVERY REPORT</b>	
Borrower Business Name: <input type="text"/>	
This is a (check one): <input type="checkbox"/> Initial Report: <input type="text"/> FDC IBank Loan #: <input type="text"/>	
<input type="checkbox"/> Final Report: <input type="text"/> <input type="checkbox"/> Additional Report: <input type="text"/>	
Field:	Information Needed:
▪ Borrower Business Name	✓ Name of business with defaulted loan.
▪ FDC IBank Loan #	✓ Unique IBank loan number associated with the borrower's loan. ☞ This is <b>not</b> the lender's loan number.
▪ This is a (check one): <ul style="list-style-type: none"><li>○ Initial Report</li><li>○ Additional Report</li><li>○ Final Report</li></ul>	✓ Check one report type as follows: <ul style="list-style-type: none"><li>○ Initial Report: This is the first default recovery report filed for the delinquent guaranteed loan. ☞ Must be submitted to IBank with the "Request for Payment on Defaulted Guarantee" Form.</li><li>○ Additional Report: This is for each subsequent default recovery report filed quarterly.</li><li>○ Final Report: This is the final default recovery report submitted when the FDC determines no further recoveries are likely.</li></ul>
Borrower Business Information Section	

Borrower Business Information	
Business Owner(s) Name	
Business Phone #	
Is the business still in operation?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the FDC attempting restructured payments?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the FDC attempting to liquidate the business' assets?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Date legal action commenced:	By whom:

Field:	Information Needed:
▪ Business Owner(s) Name	✓ Name(s) of all business owners.
▪ Business Phone #	✓ Business phone number.
▪ Is the business still in operation?	✓ State whether the business is still in operation.
▪ Is the FDC attempting restructured payments?	✓ State whether the FDC is attempting restructured payments.
▪ Is the FDC attempting to liquidate the business' assets?	✓ State whether the FDC is in the process of liquidating the business' assets.
▪ Date legal action commenced:	✓ Indicated the date legal action against the business began and who initiated the legal action.
▪ By whom:	

Lender Information Section	
Lender Information	
Lender Name	
Lender Contact Name & Phone #	



▪ Lender Name	✓ Name of Lender of defaulted loan.
▪ Lender Contact Name & Phone #	✓ Name and phone number of lender representative IBank can contact with questions about the default.

Default Payment to Lender Information Section	
Default Payment to Lender Information	
Principal Amount:	Interest Amount:
Total Payout Amount:	Date Paid:

⚠ This section is only applicable for default recovery reporting for the **Quarterly** Report and **Final** Report.

▪ Principal Amount	✓ Enter the principal amount at the time of the default.
▪ Interest Amount	✓ Enter the interest amount at the time of the default.
▪ Total Payout Amount	✓ Enter the total amount IBank paid for the defaulted guarantee.
▪ Date Paid	✓ Enter the date the FDC forwarded the IBank check to the lender.

Default Payment to Lender Information Section
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Post Default Payment Recovery Information Only Applicable for Quarterly Report & Final Report!				
Recovery Amount this Quarter:		Cumulative Recovery Amount:		
Recovery Expenses this Quarter:		Cumulative Recovery Expenses:		
Net Recovery Amount this Quarter:		Cumulative Net Recovery Amount:		
 This section is only applicable for default recovery reporting for the <b>Quarterly</b> Report and <b>Final</b> Report.				
Field:	Information Needed:			
▪ Recovery Amount this Quarter	✓ Indicate the recovery amount for this reporting quarter.			
▪ Recovery Expenses this Quarter	✓ Indicate the amount of recovery expenses incurred by the FDC during this reporting quarter.  FDC must submit adequate documentation to be eligible for IBank reimbursement of recovery expenses.			
▪ Net Recovery Amount this Quarter	✓ Indicate the net recovery amount (=recovery amount – recovery expenses) for this reporting quarter.			
▪ Cumulative Recovery Amount	✓ Indicate the cumulative recovery amount since the start of FDC recovery efforts.			
▪ Cumulative Recovery Expenses	✓ Indicate the cumulative recovery expense amount since the start of FDC recovery efforts.			
▪ Cumulative Net Recovery Amount	✓ Indicate the cumulative net recovery amount (=cumulative recovery amount – cumulative recovery expenses) since the start of FDC recovery efforts.			
Collateral Information Section				
Collateral Information				
	Lender Estimated Liquidation Value	Type of Asset	Asset in Possession of	If Asset is in FDC's Possession
Asset A			<input type="checkbox"/> Borrower <input type="checkbox"/> FDC	Liquidation Value: Asset Location: Itemized Description: Liquidation Effort:
Asset B			<input type="checkbox"/> Borrower <input type="checkbox"/> FDC	Liquidation Value: Asset Location: Itemized Description: Liquidation Effort:
Additional Recovery Efforts				
▪ Lender Estimated Liquidation Value		✓ State the liquidation value of the collateral as estimated by the lender at the time the loan was made.		
▪ Type of Asset		✓ State the type of the asset (i.e. restaurant furniture, kitchen equipment, or delivery van make/model/year)		

▪ Asset in Possession of	✓ Indicate if the asset is currently in possession of the borrower or the FDC.
▪ If Asset is in FDC's Possession <ul style="list-style-type: none"> <li>○ Liquidation Value</li> <li>○ Asset Location</li> <li>○ Itemized Description</li> <li>○ Liquidation Effort</li> </ul>	✓ This is only applicable if the asset is in the FDC's possession. <ul style="list-style-type: none"> <li>○ State the amount FDC expects to recuperate from the sale of the asset.</li> <li>○ Provide the address of where the asset is stored.</li> <li>○ Detail the items in this asset category (i.e. for restaurant furniture, the itemized description would be 20 tables, 50 chairs, etc.)</li> <li>○ State what efforts the FDC is currently undertaking to liquidate the assets (i.e. advertise for sale)</li> </ul>
▪ Additional Recovery Efforts	✓ Describe any additional recovery efforts in-progress or planned by the FDC.

**Expected Problems with Securing Recovery Section**

Expected Problems with Securing Recovery Only Applicable for Initial Report!	
<b>Description of Problems</b>	
<b>Bankruptcy?</b>	<b>If Bankruptcy:</b>
<input type="checkbox"/> Yes	State Filing Date: <input style="width: 150px;" type="text"/>
<input type="checkbox"/> No	Chapter: Disposition: <input style="width: 150px;" type="text"/>

This section is only applicable for default recovery reporting for the **Initial** Report.

Field:	Information Needed:
▪ Description of Problems	✓ Summarize potential problems FDC expects with its collateral recovery efforts.
▪ Bankruptcy?	✓ State whether the business has filed for bankruptcy.
▪ If Bankruptcy: <ul style="list-style-type: none"> <li>○ State Filing Date</li> <li>○ Chapter</li> <li>○ Disposition</li> </ul>	✓ This is only applicable if the business has filed for bankruptcy. <ul style="list-style-type: none"> <li>○ Select the bankruptcy filing date with the State.</li> <li>○ State whether the bankruptcy is filed as a Chapter 7, 11, or 13.</li> <li>○ Summarize the bankruptcy disposition.</li> </ul>

**FDC Reasons for Ending Recovery Attempts Section**

FDC Reasons for Ending Recovery Attempts Only Applicable for Final Report!	
<b>Description of Reasons:</b>	

This section is only applicable for default recovery reporting for the **Final** Report.

▪ Description of Reasons	✓ Describe reasons for FDC to terminate recovery attempts on the default.
--------------------------	---

## VI. REPORTING REQUIREMENTS

FDCs are by statute and contractually required to regularly report to IBank on the status of loan guarantees enrolled with the SBGLP. Currently, IBank requires certain weekly, quarterly, and annual reports to be submitted as follows:

Reports	Reporting Frequency		
	Weekly	Quarterly	Annually
Articles of Incorporation & Bylaws from Prior Fiscal Year			✓
Audited Financial Statements			✓
Board Approved FDC Budget for Current Fiscal Year			✓
Default Recovery Report		✓	
FDC Strategic Plan or Plan of Operation			✓
Full FDC Staff Roster			✓
Loan Guarantee Database Update		✓	
Pipeline Report	✓		
Projected Fiscal Year Summary of Authorized Program Activities			✓

### A. Weekly Reporting

On a weekly basis, FDCs must submit to IBank the **Pipeline Report** detailing the status of guarantee enrollments in progress as well as new projects, modifications, and withdrawn loans.



The Pipeline Report is due on Mondays for the prior week-ending Friday and must be submitted to IBank's SBGLP email at: [SBFC@ibank.ca.gov](mailto:SBFC@ibank.ca.gov).

#### A.1. Instructions for Completing the Pipeline Report

This section provides instructions for FDCs on how to complete the weekly Pipeline Report, which is used to track any guarantees in progress as well as final guarantees.

IBank Small Business Loan Guarantee Program									
Weekly Pipeline Report									
FDC Name:									
Borrower Business Name	Date First Reported on Pipeline Report	Loan or Line-of Credit Amount	Guarantee % Requested	Guarantee Amount Requested	Program	Use of Proceeds	Status	IBank FDC Loan #	Lender Name
				\$ -					
				\$ -					



Field:	Information Needed:
▪ Borrower Business Name	✓ Name of business requesting the loan.
▪ Date First Reported on Pipeline Report	✓ Date the enrollment request is <b>first</b> reported on the Pipeline Report. This date should always be a Friday for all new enrollment requests.
▪ Loan or Line-of Credit Amount	✓ List the full amount of the term loan or line-of-credit.
▪ Guarantee % Requested	✓ List the desired guarantee percentage.
▪ Guarantee Amount Requested	✓ This field will auto-calculate based on the loan/line-of-credit amount and guarantee % requested.
▪ Program	✓ Indicate whether the loan or line-of-credit will be guaranteed with federal or state funds.
▪ Use of Proceeds	✓ Select the use of proceeds options that best fits the loan purpose from the drop down menu.
▪ Status (revised June 16, 2015)	<p>✓ Select the following status options from the drop-down menu:</p> <p>(1) <b>Not Yet Sent to IBank – Pending Enrollment</b>  ☞ This is the 1<sup>st</sup> status step for guarantees received by the FDC but not yet submitted to IBank for enrollment (no CAR).</p> <p>(2) <b>Sent CAR to IBank – Pending IBank Approval</b>  ☞ This is the 2<sup>nd</sup> status for all enrollment requests. If not finalized within 90 days it should be withdrawn.</p> <p>(3) <b>Sent Final Guarantee Documents to IBank</b>  ☞ This is the last status for all enrollment requests. During the next reporting report, this loan should be removed from the pipeline report.</p> <p>(4) <b>Withdrawn</b>  ☞ There are two types of withdrawals:</p> <ol style="list-style-type: none"> <li>1. When a Lender or Borrower withdraw, after conditional approval of the CAR by IBank but <u>before</u> IBank's final approval of the enrollment; or</li> <li>2. An ineligibility is discovered after CAR approved by IBank. This is considered an un-enrollment from the SBGLP.</li> </ol> <p>☞ In addition to recording the withdrawal on the pipeline report, FDCs must send a withdrawal notice to IBank via email to the SBLGP email at: SBFC@ibank.ca.gov. During the next reporting report, this loan should be removed from the pipeline report.</p>
▪ IBank FDC Loan #	<p>✓ Unique IBank loan number associated with the borrower's loan.</p> <p>☞ This is <b>not</b> the lender's loan number.</p>
▪ Lender Name	✓ Name of Lender making the loan.
▪ Comments (revised June 16, 2015)	✓ Used to report a change in the loan during the process (i.e. amount changed)

## **B. Quarterly Reporting**

At the end of each quarter, FDCs must submit a **Loan Guarantee Database Update** to IBank that includes the current balance and credit rating of active guarantees, and notification of graduated guarantees. Also quarterly, FDCs must submit **Default Recovery Updates** to IBank.



Quarterly database updates and default recovery reports are due electronically to IBank within 15 days of the end of each quarter as follows:

Quarter Begins	Quarter Ends	Due to IBank
January 1	March 31	<b>April 15</b>
April 1	June 30	<b>July 15</b>
July 1	September 30	<b>October 15</b>
October 1	December 31	<b>January 15</b>

☞ Database Updates must be submitted via IBank's Secured Server.

☞ Default Recovery Updates must be submitted via email to:  
[SBFC@ibank.ca.gov](mailto:SBFC@ibank.ca.gov).



FDCs should report loans in the quarter associated with the guarantee recognition date, regardless of whether the FAN has been received from IBank. The guarantee recognition date is either the date on the promissory note or the date the guarantee was signed, whichever is dated and signed last.

## **C. Annual Reporting**

California Government Code Chapter 6 - Small Business Financial Assistance Act of 2013, Article 11 Section 63089.97 specifies reporting requirements for FDC. Pursuant to the Government Code, FDCs must submit their **Articles of Incorporations & Bylaws, Audited Financial Statements, Board Approved Budget, Strategic Plan or Plan of Operation, and Projected Fiscal Year Summary of Authorized Program Activities** to IBank on an annual basis. These reports can be in any format. IBank does not supply templates or have specific substance requirements other than what is listed in the GC.

☞ Refer to Chapter VIII for the full text of GC 63089.97.

In addition, FDCs are also required to submit a **Full Staff Roster** IBank. The staff roster should list names, titles, email address and phone number of all employees, loan committee members, and Board of Director members.



All annual reports must be submitted to IBank **by July 31** except for the Audited Financial Statements which are due **by October 31** for the prior fiscal year.

## **D. Change in FDC Points of Contact**

To ensure the FDC is aware of all current IBank Directives & Requirements as well as changes to program policies or practices, FDCs should keep IBank informed about any changes to key FDC contacts by sending a brief memo to IBank with the new or updated name, address, phone or email contact information. Specifically, FDCs should inform IBank of changes to:

- ☞ **Main Contact** – FDC’s primary contact.
- ☞ **Public Contact** – FDC contact for public inquiries (name and address will be published on IBank’s website).
- ☞ **Financial Contact** – FDC contact authorized to discuss guarantee documents, reports, default claims, etc. with IBank.
- ☞ **General Emailing List** – on occasion, IBank sends out email announcements for new processes, new forms, FDC roundtable meetings, etc. FDCs should provide the email addresses for those wishing to receive such correspondence.



Updates should be submitted to IBank’s SBLGP email at: [SBFC@ibank.ca.gov](mailto:SBFC@ibank.ca.gov).

Use “Change in FDC Contact” reference in the email subject line.

## VII. FDC TOOLS, TIPS & FAQs

This section contains tools and tips to further assist FDCs in enrolling loans, processing claims, required reporting, and provides answers to most frequently asked questions. For the most recent versions, refer to IBank's website:

🔗 IBank Homepage: <http://ibank.ca.gov/smallbusiness.htm>

🔗 FAQs: [SSBCI FAQ](#)

### A. FDC Tools & Tips

#### 1. Examples of Eligible and Non-Eligible Small Business Types

Most common small business types are eligible for participation in the SBLGP. However, certain businesses and activities are precluded from enrolling in the program if federal funds are used to guarantee the loan as shown in the table below.



This table provides examples only and is not intended for nor should be considered as a comprehensive, all-inclusive listing of eligible or non-eligible small business types.

🔗 Refer to Chapter VIII for the full text of IBank's SBLGP Directives & Requirements and contact IBank directly if you are unsure about the eligibility of a specific business type.

Type of Business	Federal Funds	State Funds
Charitable, non-profit or religious institutions	eligible	eligible
Business that earns more than half of its annual net revenue from lending activities (unless a CDFI)	not eligible	eligible
Pyramid Sales Plans	not eligible	eligible*
Business engaged in speculative activities that develop profits from fluctuations in price rather than through the normal course of trade	not eligible	not eligible
Facility Primarily Used for Gambling or to Facilitate Gambling	not eligible	not eligible
Firms engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted	not eligible	not eligible

Note: \*If lawful multi-level sales organization

## 2. Examples of Eligible and Non-Eligible Small Business Structures

The following are small business structures eligible to participate in the SBLGP:

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> <u>Sole Proprietor – Individual using legal name* as business name that files a Schedule C, or has a fictitious business name or DBA statement</u> | <input checked="" type="checkbox"/> <u>Corporation</u>    |
| <input checked="" type="checkbox"/> <u>Limited Liability Company</u>   | <input checked="" type="checkbox"/> <u>Partnership</u>    |
| <input checked="" type="checkbox"/> <u>Cooperative</u>   | <input checked="" type="checkbox"/> <u>S-Corporation</u>  |
|  | <input checked="" type="checkbox"/> <u>Not-for-profit</u> |

*Note: \*A Fictitious Business Name (FBN) or Doing Business As (DBA) statement is required when the business name does not include the surname of the individual owner(s) and each of the partners; or the business name suggests the existence of additional owners; or the nature of the business is not clearly evident by the name of the business. For example, Bill Smith and Sons Plumbing would require a FBN because the name implies additional owners, Bill Smith Plumbing does not require a FBN. Using the business name of Bill Smith or Bill Smith Industries would require a FBN because it does not identify the nature of the business.*



IBank will not accept an individual as the borrower. It is permissible for an individual to be a guarantor on the loan, but the borrower must be a small business. As a result, the borrower must be listed on the note with its business name.

### 3. Examples of Loans Eligible or Prohibited for Enrollment

While majority of business types are eligible for enrollment in the SBLGP, certain restrictions apply to the use of loan proceeds if the loan is guaranteed by SSBCI as shown in the following table.

Loan Purpose	Federal	State
Refinance other financial institution debt provided original loan was for an eligible purpose	eligible	eligible
Finance goodwill	not eligible	eligible
Purchase any portion of the ownership interest of any owner of the business	not eligible	eligible
Purchase of securities	not eligible	eligible
Reimburse funds owned to any owner, including any equity injection or injection of capital for the business' continuance	not eligible	eligible
Repay taxes held in trust or escrow (e.g. payroll or sales taxes)	not eligible	eligible
Construction or purchase of residential housing	not eligible	not eligible
Financing a non-business purpose	not eligible	not eligible
Fund any portion of an SBA loan (guaranteed or unguaranteed)	not eligible	not eligible
Enrolling same loan in two or more government programs for same purpose	not eligible	eligible
Enrolling same loan in two or more SSBCI Programs for any purpose	not eligible	not eligible
Lobbying activities	not eligible	not eligible
Passive real estate investment	not eligible	not eligible
Repay delinquent federal or state income taxes unless the borrower has a payment plan in place with the relevant tax authority (possible with approval from US Treasury) (revised June 16, 2015)	not eligible	not eligible



All guarantees are considered Federal under the SSBCI program until IBank deems them ineligible and enrolls them into the State program, with the exception of “good will”, “partner buyout” and “reimbursement to an owner”. Loans that have “good will”, “partner buyout” and “reimbursement to an owner” must be submitted to IBank for approval for the State program. For all other guarantees that have an ineligible SSBCI component, the ineligible component of the guarantee may be carve out, and the eligible component may be enrolled in SSBCI. All State enrollments need the approval of the IBank Chief Deputy Executive Director or Executive Director.

#### **4. Eligible Passive Real Estate Requirements**

Lease agreements are required for all Eligible Passive Real Estate transactions, regardless of collateral.

Purchases of real estate, securities or the acquisition or holding of any other real property for passive investment purposes, and lobbying activities are not considered eligible business purposes under the SBLGP. However, there are certain specific passive real estate exception criteria that, if met, allow a loan guarantee to be deemed eligible for inclusion in the SBLGP.

##### **A. Real Estate Holding Companies**

Acquisition and holding of real property by an Eligible Passive Company (EPC) that uses SBLGP supported loan proceeds and subsequently leases the property to one or more Operating Companies (OC) is permissible, if **all** of the following criteria is met:

1. 100 percent of the rentable property acquired with an SBLGP-supported loan must be leased to one or more operating companies.
2. Both passive and operating companies must:
  - ✓ Be eligible small businesses;
  - ✓ Sign borrower use of proceeds and sex offender certifications;
  - ✓ Execute a written lease with a term at least equal to the term of the SBLGP-supported loan, including options to renew exercisable solely by the operating company; and
  - ✓ Provide personal guarantees by each natural person holding an ownership interest of at least 20% of either the passive or operating company.
3. Operating Company must:
  - ✓ Be a guarantor or co-borrower on the loan to the passive company;
  - ✓ Not sublease more than 49% of the total rentable square footage for an existing building; and
  - ✓ Not sublease more than 40% of the total rentable square footage for a new building.

##### **B. Eligible Passive Real Estate Ownership Exception**

Purchases of real estate used partially by the borrower's business is an eligible business use of Federal SSBCI funds, if one of the following is met:

1. Funds used for construction of new building: small business must occupy and use no less than 60% of the total rentable property; or
2. Funds used for acquisition, renovation of an existing building: small business must occupy and use no less than 51% of the total rentable property.

In the case of State SBLGP funds, if the borrower certifies the property is used in connection with the borrower's business receiving the loan guarantee and not strictly for investment purposes, no specific occupation percentage is required for funds used

for passive real estate; however, is subject to the approval of IBank's Chief Deputy Executive Director or Executive Director.

## 5. **Refinance Requirements**

Lenders are prohibited from refinancing into the SSBCI program an existing outstanding balance or previously made loan, line-of-credit, or extension of credit owed by a small business already on the books of the same lender.

An exception is made if **all** of the following specific conditions for the refinance are met:

1. Refinance includes advancement of new monies;
2. Refinance is based on new underwriting;
3. Prior loan or line-of-credit has already matured and prior debt was for the eligible business, made by an eligible lender, and was for an original eligible use of proceeds;
4. Sole purpose is not refinancing debt with same lender, indicated by a written statement of benefit to the borrower; and
5. The refinanced loan and any preceding loans must also be eligible and compliant.

As stated on the Conditional Approval Request (CAR), there are three refinance scenarios, each with its own requirements to be eligible for enrollment in the program. All three scenarios require a statement that the refinance is a benefit to the borrower, and the original loan is the debt of the eligible business. All three scenarios also require evidence of original eligible use of proceeds and that lender of the previous loan was a qualified lender.

### A.1 **Same Lender Refinance**

Same lender refinance is only eligible for enrollment if all of the following conditions are met:

<b>Same Bank Refinance Loan Is <u>Not</u> Already Enrolled in SSBCI</b>	<b>Same Bank Refinance Loan is Already Enrolled in SSBCI</b>
✓ Refinance includes advancement of new monies.	✓ Refinance is based on new underwriting
✓ Refinance is based on new underwriting.	✓ New lender and borrower use of proceeds and sex offender certifications.
✓ Prior loan or line-of-credit has already matured. Maturity was not accelerated.	✓ New loan documents. ✓ New Guarantee documents



✓ Sole purpose is not refinancing debt with same lender (not just refinancing to refinance) indicated by a written benefit to the borrower.	✓ Written benefit to the borrower statement.
---	--

### B.1 Different Lender Refinance

Refinancing and enrolling a different lender's loan into the program is permissible if all the following conditions are met:

<b>Loan is Not Already Enrolled in SSBCI and Loan is a Refinance from a Different Lender</b>
<ul style="list-style-type: none"> <li>✓ Original Loan and all subsequent loans refinanced, meets all SSBCI eligibility requirements including eligible purpose, eligible business, and eligible lending institution;</li> <li>✓ Documentation exists to demonstrate eligible purpose of original loan; and</li> <li>✓ FDC loan write-up explains how the refinance benefits the borrower.</li> </ul>

### C.1 Credit Card Debt Refinance

Refinances can only pay off debt of the borrowing business entity and cannot be the personal debt of an individual or guarantor. Paying off business debt accumulated on business credit cards is considered the same as refinancing an existing business loan. For a business credit card debt refinance to be an eligible loan purpose, the credit card statements that shows the business name must be submitted to IBank as part of the loan enrollment packet. IBank will not allow the refinance of a personal credit card, even if the borrower claims it was used for business purposes.



When refinancing previously guaranteed loans, a CAR must be submitted no later than 90 days after the maturity date whether the loan refinanced is in the State or Federal program.



All refinances must include documentation that validates that all lenders of previous loans were qualified lenders. Eligible financial institutions are federally regulated banks and federal CDFI's. Examples of lenders that do not qualify to be refinanced include finance companies, brokers, most on-line lenders, pay-day lenders, and private party lenders. If no federal funds are being used to support the refinance, exceptions can be made for previous lenders mentioned not eligible above, provided they are licensed to lend in California, and the request is approved by the Chief Deputy Executive Director or the Executive Director of IBank. No private party or non-lender loans will be refinanced.



All refinances need to include documentation that specifically validates the original use of funds were eligible under the Federal or State program. A description in the credit memo is needed; however, will not qualify as sufficient documentation.



Refinancing of any kind requires a statement in the credit memo that clearly identifies the benefit of the refinance to the borrower.

## **6. Changes in Money Terms/ Loan Modifications**

For all existing loan guarantees, any change in a “money terms,” the FDC must obtain IBank’s prior written consent. Money term changes requiring consent consist of the following:

- |   |  |
|---|--|
| <input checked="" type="checkbox"/> Changes to maturity               | <input checked="" type="checkbox"/> Release or reduction of collateral |
| <input checked="" type="checkbox"/> Changes in the amount of the loan | <input checked="" type="checkbox"/> Increase in guarantee percentage   |

## **7. Tenant Improvement & Construction Documentation**

Tenant improvements of a business location are an eligible use of loan proceeds. Lender must control disbursements and adequate documentation is required. For term loans, if any portion of the original disbursement is “undisbursed”, the follow up disbursement documentation must be available when requested by IBank or any other authorized agencies, for audit purposes, and will be required at the time a claim is made against the guarantee.

## **8. Reporting the Number of Employees of a Small Business Concern & Related Affiliates**

To report the number of employees of a borrower, the lender will request that the borrower count all individuals employed on a full-time, part-time, or other basis. If a borrower owns multiple businesses, has acquired an affiliate, or been acquired as an affiliate, the employees counted to determine size status include the employees of all affiliates. Employees obtained from a temporary employee agency, professional employment organization, or leasing concern that received payment directly from the borrower will be included.

The borrower should consider the totality of the circumstances, including criteria used by the IRS for Federal income tax purposes, to determine whether individuals are employees of their business. In general, an individual is considered an employee of a borrower if their compensation is issued by the borrower.



Volunteers (e.g. individuals who receive no compensation, including no in-kind compensation, for work performed) are **not** considered employees.



The number of employees and affiliates for each borrower must appear on the CAR and information listed on the CAR needs to match the information in the credit memo, if the information is also written there. This information is to be certified by the borrower.

## **9. Calculating Full Time Equivalency**

The number of an employer's Full Time Equivalents (FTEs) is determined by dividing the total hours for which the borrower pays wages to all employees during the year by the number of employee work hours per year. The standard calculation for employee work hours per year is 2080: calculated by multiplying 52 weeks by 40 hours per week.

### **Example:**

In a single year a borrower pays 5 employees' wages for 2,080 hours each, 3 employees' wages for 1,040 hours each, and 1 employee's wages for 2,300 hours. The borrower's FTEs would be calculated as follows:

1. Total hours not exceeding 2,080 per employee is the sum of:
  - a. 10,400 hours for the 5 employees paid for 2,080 hours each (5 x 2,080)
  - b. 3,120 hours for the 3 employees paid for 1,040 hours each (3 x 1,040)
  - c. 2,080 hours for the 1 employee paid for 2,300 hours (lesser of 2,300 and 2,080)

☞ These add up to 15,600 hours

2. FTEs: **8** (15,600 divided by 2,080 = 7.5, rounded to the nearest whole number)



FTEs must not exceed 750 for SBLGP loans.

## **10. FDC Loan Approval**

FDC board of directors are given the responsibility to approve or disapprove of loan applications reviewed by the FDC's loan committee. The board of directors has the ability to delegate approval authority to the loan committee.

## **11. Record Retention Period for SSBCI Guaranteed Loans**

For loans guaranteed with federal funds through the SSBCI program, the SSBCI National Standards for Compliance and Oversight requires that: **Participating states must retain all financial records and supporting documents at least through January 30, 2020.**

## **B. Frequently Asked Questions (FAQs)**

For the most current FAQs, refer to the IBank website at:

☞ FAQs: [SSBCI FAQ](#)

## **VIII. SBLGP FORMS**

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In addition to the IBank online application portal, forms required by IBank for enrolling loans with SBLGP are provided in this Chapter for quick reference. FDCs should refer to the IBank SBLGP website to download the most current forms:

☞ [http://ibank.ca.gov/fdc\\_forms.htm](http://ibank.ca.gov/fdc_forms.htm)

☞ <http://applications.ibank.ca.gov>

## 1. SSBCI Lender Certification to Participate

<b>California Infrastructure and Economic Development Bank</b> <b>State Small Business Loan Guarantee Program</b>					
<b>CERTIFICATION TO PARTICIPATE</b> <b>IN THE STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM</b>					
Name of Participating Financial Institution: <span style="border: 1px solid black; display: inline-block; width: 400px; height: 20px;"></span>					
Contact Name: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></span>			Title: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></span>		
Address: <span style="border: 1px solid black; display: inline-block; width: 150px; height: 20px;"></span>		City: <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></span>		State: <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></span>	
Phone: <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></span>		Alt Phone: <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></span>		Email: <span style="border: 1px solid black; display: inline-block; width: 100px; height: 20px;"></span>	
EIN: <span style="border: 1px solid black; display: inline-block; width: 50px; height: 20px;"></span>					
Pursuant to the State Small Business Credit Initiative Act of 2010 (SSBCI), this Participating Financial Institution:					
<ul style="list-style-type: none"> <li>• Certifies that it will make available to the United States Treasury and Treasury Inspector General all books and records related to the use of the Allocated Funds until January 31, 2020, or until the completion of any related audit or investigation, subject to the Right of Financial Privacy Act (12 U.S.C. § 3401 et seq.) as applicable;</li> <li>• Certifies that it is in compliance with the requirements of 31 C.F.R. §103.121, the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), the Small Businesses Jobs Act of 2010 and the most current SSBCI Policy Guideline available at <a href="http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx">http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx</a>.</li> <li>• As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). <i>For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity; and</i></li> <li>• Certifies that it will adhere to the following financial institution criteria for all SBLGP enrollments: (1) the loan or investment has not been made in order to place under the protection of the state program prior debt that is not covered under the state program and that is or was owed by the borrower to the lender or to an affiliate of the lender, (2) the loan or investment is not a refinancing of a loan or investment previously made to that borrower by the lender or an affiliate of the lender, and (3) the participating financial institution is not attempting to enroll the guaranteed or unguaranteed portions of SBA-guaranteed loans; and</li> <li>• Certifies that all staff involved in the SSBCI enrolled loans attend an annual anti-fraud waste and abuse, ethics training and provide the Financial Development Corporation (FDC) with written verification.</li> <li>• Certifies to have a written agreement in place requiring the maintenance of all SSBCI related loan records until at least January 31, 2020.</li> <li>• Certifies that it will obtain the following borrower certifications for all SSBCI supported enrollments: <ul style="list-style-type: none"> <li>1. The borrower is a "Small Business" as defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations as amended</li> <li>2. Borrower obtained a loan in which the funds are for business use in the State of California.</li> <li>3. The business and its affiliates have 750 employees or less.</li> <li>4. The maximum loan amount is \$20,000,000 and the maximum guarantee is \$2,500,000 per borrower.</li> <li>5. The loan proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.</li> </ul> </li> </ul>					

*Revised January 2016*

**California Infrastructure and Economic Development Bank  
State Small Business Loan Guarantee Program**

6. The loan proceeds will not be used to:
- Repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority, and obtains authorization from IBank.
  - Repay taxes held in trust or escrow, e.g. payroll or sales taxes.
  - Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance.
  - Purchase any portion of the ownership interest of any owner of the business.
7. Borrower is not:
- An executive officer, director, or principal shareholder of the lender.
  - A member of the immediate family of an executive officer, director, or principal shareholder of the lenders.
  - A related interest of an executive officer, director, principal shareholder, or member of the immediate family.
- For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.
8. Borrower is not:
- A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business.
  - A business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions.
  - A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants.
  - A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution).
  - A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.
9. As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).
- Certifies that there have been no changes to the status of the Participating Financial Institution since the previous agreement.

\* All capitalized terms are defined in either Section 1.1 of the California Small Business Credit Initiative Allocation Agreement or defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations, the Directives and Requirements for the Small Business Finance Center or the California Corporation's Code § 14003.

Any Participating Financial Institution which fails to comply with the above certifications will be suspended from receiving SSBCI contributions.

Authorized Signature

Date

**Name & Title**

Name & Title


California Infrastructure and Economic Development Bank Use Only

Program Manager Signature

Date Received

*Revised January 2016*

## 2. SBLGP SSBCI Conditional Approval Request (CAR)

 Conditional Approval Request

**General Information Requested**

Date Submitted	<div>6/1/2016</div> <div>X/X/20XX</div>
FDC Name	<div>Hancock Small Business Financial Development Corporation</div>
Lender Name	<div>FDC Name</div>
Borrower Business Name	<div></div>
Business Structure	<div></div>
FDC IBank Loan #	<div></div>
Term or Line-of-Credit	<div></div>
Loan or Line-of-Credit Amount	<div></div>
Guarantee % Requested	<div></div>
Guarantee Amount Requested	<div>\$0</div> <div>Peer review required if amount is \$1,000,000 or more</div>

### Additional Borrower & Loan Information

Zip Code (where  
funds will be used)

Annual Revenues  
(last fiscal year)

# of Jobs Created

NAICS Code

Business Activity

Concurrent Private  
Financing Amount

Year Business  
Incorporated

Full Time Equivalents  
(FTEs)

# of Jobs Retained

Census Tract #

### How Funds Will Be Used

Program

### Eligible Use of Proceeds (select at least one)

☐ Bridge Loan

☐ Building Purchase

☐ Business Procurement

☐ Construction (New)

☐ Equipment Purchase

☐ Inventory

☐ Start-up Costs

☐ Tenant Improvements

☐ Working Capital



#### Same Bank Refinance (Not already enrolled)

☐ Is there advancement of new money?

☐ Is there new underwriting?

☐ Not just refinancing to refinance.

☐ Has the loan matured?

Loan Maturity Date (if applicable)

#### Same Bank Refinance (Already enrolled)

☐ Is there new underwriting?

☐ Are the lender and borrower(s) signing new certifications?

☐ Will new loan documents be signed?

☐ Will a new Guarantee be issued?

Prior SSBCI Loan # (if applicable)

Prior SSBCI Loan # (if applicable)

Prior SSBCI Loan # (if applicable)

Prior SSBCI Loan # (if applicable)

Prior SSBCI Loan # (if applicable)

Prior SSBCI Loan # (if applicable)

#### Different Bank Loan Refinance

☐ Was the use of proceeds on the original loan SSBCI eligible?

☐ Is there documentation to demonstrate the eligible use of proceeds on the original loan?

☐ Does the FDC Write-Up explain how the refinance benefits the borrower?

### 3. Borrower/Investee Use of Proceeds Certification

#### CALIFORNIA SMALL BUSINESS LOAN GUARANTEE PROGRAM (SBLGP) STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI)

#### LENDER USE OF PROCEEDS & SEX OFFENDER CERTIFICATION

Lender Legal Name:

**Lender Legal Name**

Borrower Legal Name:

**Borrower Name**

##### Use of Proceeds

This Assurance is referenced by Section 3006(f)(2) of the Small Business Jobs Act of 2010.

The Lender/Investor hereby certifies to the Participating State the following:

1. The loan or investment has not been made in order to place under the protection of the approved state program prior debt that is not covered under the approved state program and that is or was owed by the borrower to the lender or to an affiliate of the lender.
2. The loan or investment is not a refinancing of a loan or investment previously made to that borrower by the lender or an affiliate of the lender.
3. The lender is not attempting to enroll the guaranteed or unguaranteed portions of SBA-guaranteed loans.
4. [For investment under SSBCI Venture Capital Programs] The investment complies with the conflict of interest rules set forth in the National Standards for Compliance and Oversight.

##### Sex Offender

This certification is required by Section 3011(c)(2) of the Small Business Jobs Act of 2010 from any private entity that receives a loan, a loan guarantee, or other financial assistance using funds received by a participating State under the State Small Business Credit Initiative.

As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity hereby certifies to the participating State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.

**Lender Legal Name**

**Print Name & Title**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Print Name & Title

Date \_\_\_\_\_

##### Instructions:

*This certification must be executed prior to or at the time of closing of the loan guarantee transaction. A copy of it must be provided to IBank, and the original must be kept by the FDC as part of the loan guarantee file.*

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#### 4. Borrower/Investee Use of Proceeds Certification

**CALIFORNIA SMALL BUSINESS LOAN GUARANTEE PROGRAM (SBLGP)  
STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI)  
BORROWER/INVESTEE USE OF PROCEEDS CERTIFICATION**

Small Business Borrower Legal Name: **Borrower Business Name**

Your loan is being enrolled in the IBank Small Business Loan Guarantee Program. You are the "Borrower". By signing this document you certify to the following:

1. Borrower is a "Small Business" as defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations as amended
2. Borrower obtained a loan in which the funds are for business use in the State of California.
3. Borrower's business and its affiliates have 750 employees or less.
4. The maximum loan amount is \$20,000,000 and the maximum guarantee is \$2,500,000 per borrower.

When your loan guarantee is related to Federal support these assurances, reference Section 3006(f)(2) and Section 3011(c)(2) of the Small Business Jobs Act of 2010, apply.

The borrower or investee hereby certifies the following to the lender or investor:

1. The loan or investment proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.
2. The loan or investment proceeds will not be used to:
  - a) repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority; or
  - b) repay taxes held in trust or escrow, e.g. payroll or sales taxes; or
  - c) reimburse funds owed to any owner, including any equity injection or injection of capital
  - d) for the business' continuance; or
  - e) to purchase any portion of the ownership interest of any owner of the business.
3. The borrower or investee is not:
  - a) an executive officer, director, or principal shareholder of the lender; or
  - b) a member of the immediate family of an executive officer, director, or principal
  - c) a shareholder of the lenders; or
  - d) a related interest of an such executive officer, director, principal shareholder, or
  - e) a member of the immediate family.

For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.

1. The borrower or investee is not:
  - a) a business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk

Instructions:

This certification must be executed prior to or at the time of closing of the loan guarantee transaction. Use additional signature pages as needed. A copy of it must be provided to IBank, and the original must be kept by the FDC as part of the loan guarantee file.

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**CALIFORNIA SMALL BUSINESS LOAN GUARANTEE PROGRAM (SBLGP)  
STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI)  
BORROWER/INVESTEES USE OF PROCEEDS CERTIFICATION**

management strategy to guard against price fluctuations related to the regular activities of the business; or

- b) a business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions; or
- c) a business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants; or
- d) a business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution); or
- e) a business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.

**Borrower Business Name**

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Date

**For Eligible Passive Real Estate Investment Loans Only:**

\_\_\_\_\_  
Eligible Passive Company (EPC) Name

\_\_\_\_\_  
Operating Company (OC) Name

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**Instructions:**

*This certification must be executed prior to or at the time of closing of the loan guarantee transaction. Use additional signature pages as needed. A copy of it must be provided to IBank, and the original must be kept by the FDC as part of the loan guarantee file.*


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## 5. Borrower/Investee Sex Offender Certification

CALIFORNIA SMALL BUSINESS LOAN GUARANTEE PROGRAM (SBLGP) STATE SMALL BUSINESS CREDIT INITIATIVE (SSBCI) BORROWER/INVESTEE SEX OFFENDER CERTIFICATION	
Small Business Borrower Legal Name:	<b>Borrower Business Name</b>
<p>This certification is required by Section 3011(c)(2) of the Small Business Jobs Act of 2010 from any private entity that receives a loan, a loan guarantee, or other financial assistance using funds received by a participating State under the State Small Business Credit Initiative.</p> <p>As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity hereby certifies to the participating State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity.</p>	
<b>Borrower Business Name</b>	<b>Guarantor Name</b>
_____ Authorized Signatory	_____ Guarantor Signature
<b>Print Name &amp; Title</b>	<b>Print Name &amp; Title</b>
Print Name & Title	Print Name & Title
_____ Date	_____ Date
<b><u>For Eligible Passive Real Estate Investment Loans Only:</u></b>	
_____ Eligible Passive Company (EPC) Name	_____ Operating Company (OC) Name
_____ Authorized Signatory	_____ Authorized Signatory
<b>Print Name &amp; Title</b>	<b>Print Name &amp; Title</b>
Print Name & Title	Print Name & Title
_____ Date	_____ Date
<p><b>Instructions:</b> This certification must be executed prior to or at the time of closing of the loan guarantee transaction. Use additional forms for signatures as needed. A copy of it must be provided to IBank, and the original must be kept by the FDC as part of the loan guarantee file.</p>	
Revised September 2015	
Page 1 of 1	

## 6. Request for Payment on Defaulted Guarantee


 <b>California Small Business Loan Guarantee Program (SBLGP) State Small Business Credit Initiative (SSBCI)</b>	
<b>REQUEST FOR PAYMENT ON DEFAULTED GUARANTEE</b>	
<b>General Information</b>	
Date	
FDC Name	
FDC Contact Name & Phone #	
Lender Name	
Borrower Business Name	
FDC IBank Loan #	
Original Loan or LOC Amount	Guarantee % (as decimal) 0.0000%
<b>Default Calculation</b>	
Outstanding Principal Balance	As of:
Liquidated Collateral Amount (if applicable)	Adjusted Principal Amount (= Outstanding Principal Balance – Liquidation) \$ 0.00
Interest Rate (Enter as decimal) 0.0000%	Accrued Interest Amount \$ 0.00
Interest from/to Dates (90 days or less)	# of Days Interest (max. 90 days) 90
OR Interest from/to Dates (if over 90 days enter dates here)	
<b>Guarantee Amount Requested</b>	
Guaranteed Principal Amount (= Adjusted Principal Amount x Guarantee %)	\$ 0.00
Interest Amount Due (=Principal at Default X Interest Rate: Not to exceed 90 days) X Guarantee %	\$ 0.00
<b>Total Guarantee Payment Amount Requested</b>	<b>\$ 0.00</b>
<b>Documents Submitted with this Request for Payment</b>	
<input type="checkbox"/> Cover Letter Summarizing Demand & Amount of Payout <input type="checkbox"/> Request for Payment on Defaulted Guarantee (this form) <input type="checkbox"/> California Department of Business Oversight or Independent Auditor Investigation Report <input type="checkbox"/> Guarantee dated: <input type="text"/> <input type="checkbox"/> Two Delinquency Letters from Lender to Borrower dated <input type="text"/> and <input type="text"/> <input type="checkbox"/> Demand Letter from Lender to FDC including Borrower Loan Payment History <input type="checkbox"/> Proof of Liquidation of Collateral	
Signed this ____ day of _____, ____	
_____ Authorized Signatory	<input type="text"/> Print Name & Title

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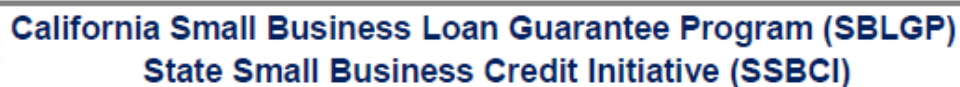


## 7. Default Recovery Report

 <b>California Small Business Loan Guarantee Program (SBLGP)</b> <b>State Small Business Credit Initiative (SSBCI)</b>				
<b>QUARTERLY DEFAULT RECOVERY REPORT</b>				
Borrower Business Name: _____				
This is a (check one): <input type="checkbox"/> Initial Report: _____ FDC IBank Loan #: _____ <input type="checkbox"/> Final Report: _____ <input type="checkbox"/> Additional Report: _____				
<b>Borrower Business Information</b>				
Business Owner(s) Name	_____			
Business Phone #	_____			
Is the business still in operation?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Is the FDC attempting restructured payments?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Is the FDC attempting to liquidate the business' assets?	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Date legal action commenced:	By whom: _____			
<b>Lender Information</b>				
Lender Name	_____			
Lender Contact Name & Phone #	_____			
<b>Default Payment to Lender Information</b>				
Principal Amount:	_____			
Interest Amount:	_____			
Total Payout Amount:	_____			
Date Paid:	_____			
<b>Post Default Payment Recovery Information</b> <b>Only Applicable for Quarterly Report &amp; Final Report!</b>				
Recovery Amount this Quarter:	_____			
Cumulative Recovery Amount:	_____			
Recovery Expenses this Quarter:	_____			
Cumulative Recovery Expenses:	_____			
Net Recovery Amount this Quarter:	_____			
Cumulative Net Recovery Amount:	_____			
<b>Collateral Information</b>				
	Lender Estimated Liquidation Value	Type of Asset	Asset in Possession of	If Asset is in FDC's Possession
Asset A	_____	_____	<input type="checkbox"/> Borrower <input type="checkbox"/> FDC	Liquidation Value: _____ Asset Location: _____ Itemized Description: _____ Liquidation Effort: _____
Asset B	_____	_____	<input type="checkbox"/> Borrower <input type="checkbox"/> FDC	Liquidation Value: _____ Asset Location: _____ Itemized Description: _____ Liquidation Effort: _____
<b>Instructions:</b> This report must be submitted 1) with the Request for Payment on Defaulted Guarantee Form; 2) every quarter thereafter; and 3) upon termination of recovery efforts. Use additional forms as needed.				

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Print Name & Title

Final Report  
Approved By: \_\_\_\_\_ Date: \_\_\_\_\_  
IBANK SBLGP Print Name & Title



## 8. Commitment Letter

### California Infrastructure and Economic Development Bank (IBank)

### Small Business Finance Center (SBFC) Small Business Loan Guarantee Program (SBLGP)

## COMMITMENT LETTER

Select Date Commitment Letter is Prepared

Lender Contact Name

Lender Contact Title

Lender Name

Lender Address

Lender City, CA Zip Code

Subject: Commitment Letter for a Credit Facility

Regarding: Borrower Business Name

This Guarantee is a: Click to Select This Guarantee is for a: Click to Select

Dear Lender Contact Name:

#### Pertinent Facts

I. Under the authority granted by Chapter 1 of the California Small Business Financial Development Corporation Law (commencing with Section 14000) of Title 1, Division 3, Part 5, (the "Small Business Act"), the Board of Directors of Click to Select, ("Corporation") in its capacity as a nonprofit California small business financial development corporation created pursuant to the Small Business Act, , having offices at Click to Select under the delegated lending authority granted on Select Date, conditionally authorized a Guarantee Percentage Spelled-Out percent (Guarantee Percentage # %) guarantee (the "Guarantee") on the Click to Select ("Loan") which has been offered to Auto-Fill ("Borrower") by Auto-Fill ("Lender"). However, Corporation's commitment to the Guarantee will expire on Select Date, (no more than 90 days) if the Loan has not been executed by that time. There is no minimum term for a guarantee. The maximum term of any guarantee is seven years, however a loan term may be longer.

II. The Loan principal amount is \$Principal Amount (Principal Amount Spelled-Out) with a # of months month term. Repayment will consist of # of months months beginning Select Date, of approximately \$Payment Amount (Payment Amount Spelled-Out) continuing each month until loan maturity on or before Select Date, or if other than each month, on the payment plan of Click here to enter text. . Be advised that a balloon payment does not constitute a default and, therefore, will not activate the loan guarantee. The interest rate is Interest Rate %% until Lender increases or decreases the interest rate based upon individual loan pricing and as changed

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

from time to time by the Lender. The loan proceeds will be used to **Description of what loan is funding.**

III. Corporation shall be paid fees totaling **\$Total Fee Amount (Total Fee Amount Spelled-Out)** consisting of a **\$Guarantee Fee Amount (Guarantee Fee Amount Spelled-Out)** guarantee fee which represents 2.5% of the guaranteed portion of the Loan and a **\$250** (Two Hundred and Fifty and No/100 Dollars) loan documentation fee. Lender agrees to pay these fees at the time the Loan documents are signed, and forward the fees to Corporation immediately.

IV. If Corporation's Guarantee is a "Collection Guarantee," then it is defined in the Directives & Requirements Section 5000 of the California Infrastructure and Economic Development Bank (IBank) for the Small Business Finance Center Programs (Directives and Requirements), and is valid and enforceable only against the outstanding Loan principal as of the date of Default (as defined in the Loan Default Procedures issued by the Corporation in connection with the Guarantee of the Loan/Line), minus subsequent payments attributed to principal and up to ninety (90) calendar days of post default interest earned and unpaid. The percentage of interest for which Corporation is liable under its Guarantee shall not exceed the percentage of Guarantee specified in paragraph I, above.

#### General

V. The Guarantee is conditionally offered and is not legally binding upon Corporation until and unless:

- A. Lender executes a written, standard form, promissory note and credit agreement with Borrower for the entire amount of the Loan, with terms and conditions that incorporate those included in this Commitment Letter and the Guarantee executed by Corporation.
- B. Lender executes and perfects security agreements as may be required in this Commitment Letter.
- C. When utilizing federal funds, Lender and Borrower shall each execute the certifications as follows:
  - Annually
  - 1. "Lender Certification to Participate in the State Small Business Credit Initiative"
  - Per Transaction
  - 2. "Lender Use of Proceeds & Sex Offender Certification"
  - 3. "Borrower Use of Proceeds Certification"
  - 4. "Borrower Sex Offender Certification"
- D. Other: **Add any additional conditions, if applicable. Otherwise, type "n/a".**

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

Additional Conditions  
Additional Conditions  
Additional Conditions  
Additional Conditions  
Additional Conditions

These conditions shall be referred to as "conditions for issuance of the Guarantee".

VI. Lender agrees to abide by all applicable state and federal laws and regulations.

VII. Corporation's Guarantee covers "new debt" with Lender. Any and all balances open on any term loan or other indebtedness of the Borrower to the Lender or others at the time of the Guarantee's execution are not covered and will not be covered by the Guarantee. Lender shall provide Corporation with written confirmation of Borrower's existing debt at the time of the Guarantee's execution.

VIII. Lender has analyzed the financial capacity of the Borrower; Lender hereby confirms to Corporation the existence of all assets given as collateral to secure the Loan (Collateral) by personal inspection when possible or if not possible, then from independent third parties. Lender's representations to Corporation regarding the Borrower and the Borrower's financial capacity and Collateral are material to the Corporation's decision to offer the Guarantee of Lender's Loan to the Borrower notwithstanding any separate evaluation of the Borrower by Corporation.

IX. Lender warrants its evaluation of the Collateral securing the Loan to the Borrower provided in the above paragraph and agrees that it shall maintain an accurate record of all accounts of the Borrower to facilitate accessing all of the remedies available to the Lender under the California Uniform Commercial Code.

X. Lender and Corporation agree mutually to deal with one another in good faith in all aspects of their contractual relationship.

XI. If the Borrower is delinquent on the Loan payments, Lender shall evaluate all options for collection of the balance due on the Loan. Lender shall send the Borrower two delinquency notification letters at least 30 days apart prior to a Demand, except in the case of the Borrower filing for bankruptcy protection. Should the Loan become sixty (60) days delinquent for payment or otherwise seriously in default, Lender shall develop a liquidation strategy and plan that includes at a minimum an enumeration of the collateral in sufficient detail to identify and value the collateral assets and access the remedies available under the Uniform Commercial Code. A liquidation plan of action shall be submitted to Corporation for its review at the time the Lender accelerates the Loan and demands payment in full from the Borrower.

#### Collateral

XII. Corporation relies, as a pre-condition for issuance of the Guarantee, on the

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

secured and perfected security interests in the Collateral. Failure by Lender to protect the perfected security interests in the Collateral reduces the value of the Collateral. In the event of any demand by Lender upon the Guarantee (a "Demand"), Corporation shall have the right to reduce its liability under the Guarantee by the amount the Collateral is reduced in value. Corporation is not entitled to reduce its Guarantee liability unless and until Corporation can demonstrate that the value of the Collateral was diminished because of Lender's failure to take all actions necessary to protect the Collateral. Lender further agrees to immediately inform Corporation of any activities which may diminish the value of the Collateral.

XIII. Lender certifies that all of the Collateral for the Guarantee is listed below in sub-parts of this paragraph. The actions required by Lender to perfect the security interest are also listed below in the sub-parts of this paragraph. In all cases, Lender must retain signed, and where customary notarized, originals of the documents listed below.

- A. The following insurance policies must be kept in effect with loss payable endorsements to Lender (if applicable).

1. All risk insurance including fire, theft and liability for the business assets identified as follows: ☐Required ☐Not Required

Business Property

Borrower Business Address  
Borrower Business Address  
Borrower Business Address  
Borrower Business Address

2. Fire and extended coverage insurance as follows:  
☐Required ☐Not Required

Personal Property

Borrower Personal Address  
Borrower Personal Address  
Borrower Personal Address  
Borrower Personal Address

The assets shall be insured for full value, but not to exceed replacement cost.

- B. A Broad Form UCC financing statement filed with the Secretary of State, and/or any other agency as required by the California Commercial Code evidencing a security interest upon all business accounts receivable, inventory, equipment, furniture and fixtures currently owned or hereafter acquired. ☐Required ☐Not Required

Corporation shall have the right to rely on Lender's perfection of the security interests as described herein under California Law.

It is acknowledged that Lender's boilerplate language is acceptable and may be

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

substituted in place of this verbiage.

[Click here to enter text.](#)

- C. A valid Broad Form security interest shall be filed on all business accounts receivable, inventory, equipment, furniture and fixtures currently owned or hereafter acquired. ☐Required ☐Not Required

Corporation shall have the right to rely on Lender's perfection of the security interests in the Collateral as described herein under California Law.

[Click here to enter text.](#)

- D. Deed of Trust on real property (if applicable): ☐Required ☐Not Required

1. Lender will execute and record a deed of trust on the property owned by [Property Owner](#), located at [Property Address](#). Lender to obtain an appraisal on the pledged real estate, with a minimum value of [\\$Property Value](#).  
☐Required ☐Not Required
2. Lender shall verify any senior liens and outstanding indebtedness recorded and otherwise known to Lender on the property listed in D-1.
3. Lender will execute and record a deed of trust on the property listed in D-1, which will be in [Lien Position # and any further Description if applicable](#).
4. Lender will provide a [Name of Title Report](#) title report verifying the [Lien Position #](#) lien position on this loan.

- E. Additional Collateral (if applicable)  
[Additional Collateral](#)

XIV. Lender shall not substitute assets for Collateral listed in Paragraph XIII, or release, abandon or transfer its security interest or reduce its priority position without the prior written approval of IBank.

#### Limitations

- XV. Loan disbursements shall be based upon the following formula:

- A. According to Lender's Specifications.
- B. Other: [Add any additional conditions, if applicable. Otherwise, type "n/a".](#)

XVI. Prior joint written approval of Corporation and Lender shall be required before Borrower can do any of the following:

- A. Make or receive outside investments;
- B. Borrow, pledge or encumber for additional monies;
- C. Enter into a merger of acquisition;
- D. Issue treasury stock;

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

- E. Pay Dividends; and
- F. Make interest or principal payments on the debts owed to any owners or officers.  
Lender shall require all such debts to be subordinated to the Loan.

#### Lender Reporting

XVII. Lender agrees to provide Corporation the following information, in writing, on a quarterly basis:

- A. Principal balance of the Loan or Line of Credit.
- B. Date and amount of last principal payment and interest payment.
- C. Date Borrower's next principal payment and interest payment are due.
- D. Status of the Loan (i.e., current, paid off).

XVIII. Lender agrees to provide Corporation with a copy of annual tax returns of the Borrower, within 30 days of filing date each year.

☐Required ☐Not Required ☐Upon Request

XIX. Lender agrees to provide Corporation with a copy of quarterly business financial statements, and accounts receivable and accounts payable aging of the Borrower, within 30 days of each quarters end.

☐Required ☐Not Required ☐Upon Request

XX. Lender agrees to provide Corporation with a copy of personal financial statements of the Borrower on the anniversary date of the Loan and personal tax returns of any Guarantor, within 30 days of filing each year.

☐Required ☐Not Required ☐Upon Request

XXI. Additional Reporting Requirements

#### **Additional Reporting Requirements**

#### Subsequent Events

XXII. Lender agrees to work closely with Corporation and the Borrower, and to notify Corporation orally, and in writing, immediately upon learning of any material change to the Loan or to the Borrower. Lender agrees to take reasonable steps to ensure that it is apprised of any material changes to the financial condition and operations of the Borrower.

XXIII. Lender agrees to service the entire Loan, and agrees that the entire Loan will be secured by the same Collateral with equal lien priority for the guaranteed and unguaranteed portions of the Loan. The unguaranteed portion of the Loan will not be paid first or given

## California Small Business Loan Guarantee Program

### COMMITMENT LETTER

any preference or priority over the guaranteed portion.

XXIV. Lender agrees to return to Corporation copies of all signed Loan and Guarantee documents within ten (10) working days of signing the documents. Lender further agrees to send to Corporation, conformed or filed, stamped or recorded copies of all perfected security agreements for the Collateral as soon as available.

XXV. Corporation relies upon Lender to legally perfect all Collateral, to execute and deliver all Loan and Collateral documents, and to ensure satisfaction of all terms and conditions required by the Loan and Guarantee agreements. Lender warrants to Corporation that it has taken all actions necessary to properly prepare and file said documents. This is a condition precedent to the validity of the Guarantee.

XXVI. All disbursements on the Loan shall be evidenced by Lender's standard form of promissory note and credit agreement and the terms and conditions of this Guarantee are to be incorporated into said note and credit agreement.

XXVII. In the event of the filing of a voluntary or involuntary bankruptcy by or against the Borrower, Corporation and Lender agree to cooperate to reach decisions within the time frames required by the Bankruptcy Code and the Bankruptcy Court. This would include decisions involving cash collateral orders, debtor-in-possession financing or attempts to modify the automatic stay to enable Corporation and Lender to realize on the Collateral. Corporation, upon payment under the Guarantee, shall be the owner of the claim against the estate for the purpose of making such decisions.

XXVIII. In the event of a Demand, as defined in the Directives and Requirements, Lender shall allow a representative of the California Department of Business Oversight, or other auditor selected by the Corporation, to examine the Lender's loan files.

Please review the terms and conditions contained herein, and sign as indicated below. Each person signing on behalf of Lender and Corporation warrant that they are authorized to sign on behalf of the organization they represent and bind that organization to the specific performance of the above terms and conditions. Execution of this Commitment Letter by the parties shall constitute a valid and enforceable agreement between the parties, their successors and assigns hereto.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

**California Small Business Loan Guarantee Program**  
**COMMITMENT LETTER**

[Click to Select FDC](#)

[Auto-Fill](#)

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name & Title



## 9. Guarantee

**California Infrastructure and Economic Development Bank  
(IBank)  
Small Business Finance Center (SBFC)  
Small Business Loan Guarantee Program (SBLGP)**

### LOAN GUARANTEE

**Borrower Business Name**

**IBANK Loan ID: IBANK Loan #**

This Guarantee is a: **Collection Guarantee** This Guarantee is or a: **Click to Select**

In order to induce **Lender Name** ("Lender") to make a Loan to **Borrower Business Name** ("Borrower"), **Click to Select** ("Corporation"), in its capacity as a nonprofit California small business financial development corporation created pursuant to Title 1, Division 3, Part 5 (commencing with Section 14000) of the California Corporations Code, having offices at , hereby guarantees to Lender, its successors and assigns, principal repayment of **Guarantee Percentage Spelled-Out (Guarantee Percentage #%)** of the below listed Loan between Lender and Borrower and the same percentage of post-default interest earned and unpaid, up to ninety (90) calendar days from the date of Default as defined in the Default Loan Procedures attached hereto. As used in this Loan Guarantee (this "Guarantee"), the term "Loan" means the Term Loan or Line of Credit as evidenced by a promissory note and credit agreement between Borrower and Lender dated **Select Date** for **\$Principal Amount (Principal Amount Spelled-Out)** with the following rate and terms:

**Interest Rate:** The interest rate is **Interest Rate %**, until Lender increases or decreases the interest rate based upon individual loan pricing and as may be changed from time to time by Lender.

**Repayment Terms:** Payment beginning **Select Date**, with a payment plan as follows **Click here to enter text.** of approximately **\$Principal Amount (Principal Amount Spelled-Out)**. Loan maturity is set for **Select Maturity Date**.

If this is a Collection Guarantee, the Corporation's obligations under this Collection Guarantee are subject to IBank's SBFC Directives and Requirements. Furthermore, the Corporation shall not be liable or obligated in any way beyond the available funds in the Program trust fund account, as defined in Section 14010 (n) of the California Corporations Code, at the time of Lender's Demand (as defined in IBank's SBFC Directives and Requirements).

If this Guarantee is supported by federal funds, it is governed under provisions of the Federal Jobs Act of 2010 State Small Business Credit Initiative (SSBCI) (title III et al) and according to the terms of the SSBCI Allocation Agreement dated February 17, 2011 as amended May 19, 2011, and may be amended from time-to time.

Corporation has promised to pay up to **Guarantee Percentage Spelled-Out percent (Guarantee Percentage #%)** of principal and **Interest Percentage Spelled-Out percent (Interest Percentage**

## California Small Business Loan Guarantee Program

### LOAN GUARANTEE

#%) of interest not to exceed ninety (90) days interest earned and unpaid on the loan, subject to the following restrictions:

- a. Lender has complied with all material conditions contained in this Guarantee, including perfecting collateral; and
- b. Lender has not engaged, and will not engage, in fraudulent or negligent practices in connection with the Borrower, this Guarantee, the Loan or the loan agreement.

Corporation's obligation to honor this Guarantee is conditioned upon the following:

1. Borrower is in Default as defined in the Default Loan Procedures attached hereto and incorporated herein by reference.
2. Lender's compliance with and performance of the Default Loan Procedures prior to demand for repayment.
3. Lender's compliance with and performance of the terms of the Commitment Letter attached hereto and incorporated herein by reference.
4. Diligent pursuit by Lender of Lender's remedies in the event of bankruptcy or other creditor rights proceedings prior to making demand on this Guarantee.

This Guarantee is effective upon execution of a loan to the Borrower and the signature of both parties to this Guarantee, the Commitment Letter, and Default Loan Procedures, and shall remain in effect until the Loan is paid in full or until **Select Date**, whichever occurs first but no longer than seven years from the date of the promissory note.

Lender shall not, without the prior written consent of IBank, renew, compromise, extend, accelerate or otherwise change the time for payment or the terms of Borrower's indebtedness, except in the case of a Default. In the case of Default, Lender shall make no agreement with the Borrower, except repayment of all past due amounts, or repayment of the entire Loan, without the prior written consent of IBank.

In the event that Lender makes a Demand on this Guarantee, Lender must assign all rights and remedies to Corporation in exchange for Corporation's payment on the defaulted Loan. "Rights and remedies" as used herein include the promissory note, Loan agreement, and all security agreements and other documents and security held by Lender in connection with the defaulted Loan.

The collateral listed in the Commitment Letter concerning this Loan shall be used to secure the entire Loan, with equal lien priority for the guaranteed and unguaranteed portions of the Loan. The unguaranteed portion of the Loan will not be paid first or given any preference or priority over the guaranteed portion.

Any payment on the indebtedness guaranteed to Lender by Corporation shall reduce, by the amount of such payment, Corporation's liability hereunder.

## California Small Business Loan Guarantee Program

### LOAN GUARANTEE

If the Borrower fails to pay, when due, all or any part of the Loan guaranteed by Corporation, Lender shall follow the Default Loan Procedures. A balloon payment does not constitute a default and, therefore, will not activate this Guarantee.

Lender shall make demand on the Borrower and pursue such rights as Lender has against the Borrower short of filing suit to obtain payment in whole or in part. In any demand by Lender upon this Guarantee, Corporation shall have the right to reduce its liability under this Guarantee by the amount the Collateral (as defined in the SBFC Directives and Requirements) is reduced in value. Corporation is not entitled to reduce the Guarantee liability unless and until Corporation can demonstrate that the value of the Collateral was diminished because of Lender's failure to comply with the collateral requirements specified in the Commitment Letter.

Corporation shall be paid fees totaling **\$Total Fee Amount (Total Fee Amount Spelled-Out)** consisting of a **\$Guarantee Fee Amount (Guarantee Fee Amount Spelled-Out)** guarantee fee which represents 2.5% of the guaranteed portion of the Loan and a **\$250 (Two Hundred and Fifty and No/100 Dollars)** loan documentation fee. Lender agrees to pay these fees at the time the Loan documents are signed, and forward the fees to Corporation immediately.

Any controversy or claim arising out of or relating to this Guarantee, or any agreements or instruments relating to or delivered in connection with this Guarantee, including any claim based on or arising from an alleged tort, shall be determined by binding and mandatory arbitration. The arbitration shall be conducted in accordance with the United States Arbitration Act (Title 9, U.S. Code) under the Commercial Rules or the American Arbitration Association ("AAA"). The arbitrator(s) shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitral shall be conclusively determined by the arbitrator(s). Judgment upon the arbitration award shall be entered in any competent court; which court would have had jurisdiction if the claim was not subject to binding arbitration. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of binding arbitration and mandatory arbitration if any other party contests such action for judicial relief.

In any judicial action or proceeding arising out of or relating to this Guarantee or any agreements or instruments relating to this Guarantee or any agreements or instruments relating hereto or delivered in connection herewith, including but not limited to a tort claim, if the controversy or claim is not submitted to arbitration as provided and limited in the paragraph above, either party may elect to have all decisions of fact and law be determined by a reference in accordance with California Code of Civil Procedure Section 638 et seq. If such an election is made, the parties shall designate to the court a referee or referees selected under the auspices of the American Arbitration Association in the same manner as arbitrators are selected in Association-sponsored proceedings. The presiding referee of the panel, or the referee if there is a single referee, shall be an active attorney or retired judge. Judgment upon the award rendered by such referee or referees shall be entered in the court in which such proceeding was commenced in accordance with California Code of Civil

## California Small Business Loan Guarantee Program

### LOAN GUARANTEE

Procedure Sections 644 and 645.

Lender, in the event of a Demand, and where the Borrower has given written permission as authorized by the Financial Privacy Act Notice, will allow a representative of the California Department of Business Oversight, or other auditors selected by the Corporation, to examine the Lender's loan files.

In the event Lender and Corporation are unable to agree to one of the above listed alternatives prior to the expiration of this Guarantee, this Guarantee shall not be renewed or extended.

In the event of the filing of a voluntary or involuntary bankruptcy by or against the Borrower, Corporation and Lender agree to cooperate to reach decisions within the time frames required by the Bankruptcy Code and court. This would include decisions involving cash collateral orders, debtor-in-possession financing or attempts to modify the automatic stay to enable Corporation and Lender to realize on the Collateral. Corporation, upon payment under this Guarantee, shall be the owner of the claim against the estate for the purpose of making such decisions.

All notices required or permitted to be sent to Lender or Corporation shall be deemed to have been properly given if sent to the addresses set forth below or to such other addresses as the undersigned may designate by written notice to Lender and Corporation.

Corporation does hereby authorize and require Lender to fill in the blank space in this Guarantee by inserting the date of Lender's credit agreement.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_ Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

[Click to Select FDC](#)

[Auto-Fill](#)

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name & Title

\_\_\_\_\_  
Print Name & Title

## 10. Default Loan Procedures

**California Infrastructure and Economic Development Bank  
(IBank)  
Small Business Finance Center (SBFC)  
Small Business Loan Guarantee Program (SBLGP)**

### DEFAULT LOAN PROCEDURES

Issuing FDC: [Choose an item.](#)

Borrower Name [Click here to enter text.](#)

FDC IBank account # [Click here to enter text.](#)

In the event of a default on a guaranteed loan, the following Default Loan Procedures shall be used by Lender and Corporation pursuant to IBank's Small Business Finance Center (SBFC) Directives & Requirements.

#### I. Demand Procedures

(a) Lender shall be authorized to make a Demand (as that term is defined in the SBFC Directives and Requirements) upon the Corporation executing the Loan Guarantee (Guarantee) for repayment of the unpaid Loan principal and interest pursuant to the terms of the Guarantee, upon Lender's compliance with the following:

(1) Provide proof to Corporation that the Borrower is in Default under the applicable loan agreement (as that term is defined in the SBFC Directives and Requirements)

(2) Deliver to both the Borrower and Corporation a minimum of two letters subsequent to the Delinquency (as that term is defined in the SBFC Directives and Requirements), at least thirty (30) days apart, explaining the consequences for failure to remedy the Delinquency in a manner consistent with the applicable loan agreement. This requirement shall not apply if the Borrower is in bankruptcy.

(3) If the Guarantee is a Collection Guarantee, provide proof to Corporation that the Lender has complied with the liquidation requirements in the SBFC Directives and Requirements.

(b) Lender shall deliver to Corporation executing the Guarantee, a Demand Letter requesting immediate payment of the guaranteed portion of the allowable accrued and unpaid Loan interest and outstanding principal, and documenting compliance with subsection (a) and the applicable loan agreement.

(c) Within ten (10) business days of receipt of the Demand letter, Corporation shall contract with the California Department of Business Oversight or an independent auditor to conduct an investigation to determine whether Lender has complied with the terms of the Guarantee, and to issue a report to the Corporation. The report shall describe the findings of the investigation for each of the following issues:

(1) Whether the Loan agreement between the Borrower and Lender is consistent with the terms and conditions in the Guarantee.

## California Small Business Loan Guarantee Program

### DEFAULT LOAN PROCEDURES

- (2) Whether all Collateral (as that term is defined in the SBFC Directives and Requirements) for the Loan and Guarantee have been perfected and maintained.
  - (3) Whether all Collateral is available for assignment to Corporation in the event that payment is made upon the Demand.
  - (4) Whether any Collateral is not available as a result of Lender's negligence, breach of contract, foreclosure or other cause.
  - (5) If the Guarantee is a Collection Guarantee, whether Lender has complied with the liquidation procedures in the SBFC Directives and Requirements.
  - (6) Calculation of the outstanding principal and interest owed.
  - (7) Whether Lender complied with the procedures for making a Demand as described in the SBFC Directives and Requirements.
  - (8) In a section entitled "Loan Information" the report shall include the following information obtained solely from a review of the Lender's files: a description of the Borrower's business, a description of the Collateral for the Loan, and a discussion as to whether the Lender's files contain any reference to matters material to Borrower's compliance with any environmental laws or regulations. The description of Collateral shall identify all real property Collateral as one or more of the following: industrial, commercial, agricultural, single family residence, multi-unit residential, vacant lot, unknown.
  - (9) A history of loan payments and collection efforts.
- (d) Within ten (10) business days of receiving the California Department of Business Oversight or independent auditor's report, the Corporation shall do one of the following:
- (1) Deliver to IBank a request for payment on the Demand, along with: a copy of the report described in subsection (c), ), delinquency notification and liquidation efforts described in SBFC Directives and Requirements, a completed Request for Payment on a Demand form, and a calculation of the amount owed pursuant to the Guarantee; or
  - (2) Deliver to Lender, with a copy simultaneously delivered to IBank, a refusal to make payment pursuant to the Demand, and detailing the reasons for refusal.
- (e) Within ten (10) business days from the date IBank receives the Request for Payment on a Demand form and a copy of the report described in subsection (c), IBank shall do one of the following and inform Corporation of such action:
- (1) Deliver or cause to be delivered to Corporation a check in an amount not to exceed the amount contained in the Demand Letter, made payable to the Lender; or
  - (2) Deliver or cause to be delivered to the Corporation a denial of the request for payment to Corporation based upon noncompliance with the requirements of applicable law, regulations, rules or guidelines, the Guarantee and Default Loan Procedures, or fraud or negligence on the part of Lender.

## California Small Business Loan Guarantee Program

### DEFAULT LOAN PROCEDURES

- (3) Deliver or cause to be delivered to Corporation a statement that the investigation or report was incomplete, and requiring Corporation to complete the investigation and report and resubmit the request for payment to IBank within ten (10) business days from the date the statement is received by Corporation.
- (f) The amount paid to Lender pursuant to a Demand Letter shall be less than the amount contained in the Demand Letter only under the following circumstances:
- (1) The Demand contains an incorrect calculation of the amount owing;
  - (2) The amount owing on the Loan has been reduced by subsequent payments from the Borrower to Lender;
  - (3) Lender has engaged in fraudulent activities pertaining to the Loan; or
  - (4) The Loan and/or the Guarantee is not in compliance with the requirements of applicable law, regulations, rules or guidelines or the SBFC Directives and Requirements; or
  - (5) The report identifies fraud or negligence on the part of Lender
- (g) Within five business days of receiving the check from or on behalf of IBank, Corporation shall contact Lender and arrange to deliver the check to Lender. Corporation shall deliver the check and simultaneously collect an assignment by Lender of the Lender's interest in the Loan. The assignment shall include the Loan Note and all Collateral, except as provided in II. Collection Requirements.
- (h) The Guarantee shall include a provision for binding arbitration in the event that either Corporation or IBank denies the requested Demand pursuant to subsections (d)(2) or (e)(2), or the amount paid to Lender is less than the amount contained in the Demand Letter.
- (i) Demand must be made by Lender upon Corporation no later than noon on the ninetieth calendar day (90 days) following the date on which the Guarantee terminates; provided, however, that if the ninetieth day is not a day upon which the Corporation is open for business, the last day for making a Demand shall occur on the next succeeding day upon which the Corporation is open for business.

#### **II. Collection Requirements for Collection Guarantees** (as that term is defined in the SBFC Directives and Requirements)

- (a) Lender shall not be authorized to file a Demand for a Collection Guarantee unless it has complied with this section. The requirements contained in this section are in addition to the requirements contained in section I. Demand Procedures.
- (b) Lender must liquidate all Collateral, but shall not be required to file a lawsuit against any Borrower or guarantor. "Liquidate" as used in this paragraph means that Lender has exhausted all Collateral by one of the following methods:

## California Small Business Loan Guarantee Program

### DEFAULT LOAN PROCEDURES

- (1) converted the Collateral into cash;
- (2) demonstrated, to the satisfaction of Corporation that the Collateral is without sufficient value to convert to cash; or
- (3) demonstrated that the Borrower has filed for bankruptcy.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_

**Lender Name**

\_\_\_\_\_  
Signature

[Click here to enter text.](#)  
Print Name & Title



## 11. Certification to Participate FDC

California Infrastructure and Economic Development Bank State Small Business Loan Guarantee Program				
CERTIFICATION TO PARTICIPATE IN THE STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM				
Name of Financial Development Corporation:	<input type="text"/>			
FDC President Name:	<input type="text"/>	Title:	<input type="text"/>	
Address:	<input type="text"/>	City:	<input type="text"/>	State: <input type="text"/> Zip: <input type="text"/>
Phone:	<input type="text"/>	Alt Phone:	<input type="text"/>	Email: <input type="text"/>
Pursuant to the State Small Business Credit Initiative Act of 2010 (SSBCI), this Financial Development Corporation (FDC):				
<ul style="list-style-type: none"><li>• Certifies that it will make available to the United States Treasury and Treasury Inspector General all books and records related to the use of the Allocated Funds until January 31, 2020, or until the completion of any related audit or investigation, subject to the Right of Financial Privacy Act (12 U.S.C. § 3401 et seq.) as applicable;</li><li>• Certifies that it is in compliance with the requirements of 31 C.F.R. §103.121, the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), the Small Businesses Jobs Act of 2010 and the most current SSBCI Policy Guideline available at <a href="http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx">http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx</a>.</li><li>• As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). <i>For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity; and</i></li><li>• Certifies that it will adhere to the following criteria for all SBLGP enrollments: (1) the loan or investment has not been made in order to place under the protection of the state program prior debt that is not covered under the state program and that is or was owed by the borrower to the lender or to an affiliate of the lender, (2) the loan or investment is not a refinancing of a loan or investment previously made to that borrower by the lender or an affiliate of the lender, and (3) the FDC is not attempting to enroll the guaranteed or unguaranteed portions of SBA-guaranteed loans; and</li><li>• Certifies that all staff involved in the SSBCI enrolled loans attend an annual anti-fraud waste and abuse, ethics training and provide IBank with written verification.</li><li>• Certifies to have a written agreement in place requiring the maintenance of all SSBCI related loan records until at least January 31, 2020.</li><li>• Certifies that it will obtain the following borrower certifications for all enrollments :<ol style="list-style-type: none"><li>1. The borrower is a "Small Business" as defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations as amended</li><li>2. Borrower obtained a loan in which the funds are for business use in the State of California.</li><li>3. The business and its affiliates have 750 employees or less.</li><li>4. The maximum loan amount is \$20,000,000 and the maximum guarantee is \$2,500,000 per borrower.</li><li>5. The loan proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.</li></ol></li></ul>				

Revised September 2015

**California Infrastructure and Economic Development Bank  
State Small Business Loan Guarantee Program**

6. The loan proceeds will not be used to:
  - a) Repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority, and obtains authorization from IBank.
  - b) Repay taxes held in trust or escrow, e.g. payroll or sales taxes.
  - c) Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance.
  - d) Purchase any portion of the ownership interest of any owner of the business.
7. Borrower is not:
  - a) An executive officer, director, or principal shareholder of the lender.
  - b) A member of the immediate family of an executive officer, director, or principal shareholder of the lenders.
  - c) A related interest of an executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.
8. Borrower is not:
  - a) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business.
  - b) A business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions.
  - c) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants.
  - d) A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution).
  - e) A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.
9. As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).
- Certifies that there have been no changes to the status of the FDC since the previous contract executed between IBank and the FDC.

\* All capitalized terms are defined in either Section 1.1 of the California Small Business Credit Initiative Allocation Agreement or defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations, the Directives and Requirements for the Small Business Finance Center or the California Corporation's Code § 14003.

Any FDC which fails to comply with the above certifications will be suspended from receiving SSBCI contributions.

Authorized Signature:

Date

**Name & Title**

Name & Title

California Infrastructure and Economic Development Bank Use Only

Program Manager Signature

Date Received

*Revised September 2015*

## 12. Certification to Participate Lenders

<b>California Infrastructure and Economic Development Bank State Small Business Loan Guarantee Program</b>				
<b>CERTIFICATION TO PARTICIPATE IN THE STATE SMALL BUSINESS CREDIT INITIATIVE PROGRAM</b>				
Name of Participating Financial Institution: <input style="width: 90%;" type="text"/>				
Contact Name: <input style="width: 60%;" type="text"/>		Title: <input style="width: 40%;" type="text"/>		
Address: <input style="width: 40%;" type="text"/>		City: <input style="width: 20%;" type="text"/>		State: <input style="width: 10%;" type="text"/>
		Zip: <input style="width: 20%;" type="text"/>		
Phone: <input style="width: 20%;" type="text"/>		Alt Phone: <input style="width: 20%;" type="text"/>		Email: <input style="width: 40%;" type="text"/>
Pursuant to the State Small Business Credit Initiative Act of 2010 (SSBCI), this Participating Financial Institution:				
<ul style="list-style-type: none"><li>• Certifies that it will make available to the United States Treasury and Treasury Inspector General all books and records related to the use of the Allocated Funds until January 31, 2020, or until the completion of any related audit or investigation, subject to the Right of Financial Privacy Act (12 U.S.C. § 3401 et seq.) as applicable;</li><li>• Certifies that it is in compliance with the requirements of 31 C.F.R. §103.121, the Right to Financial Privacy Act (12 U.S.C. § 3401 et seq.), the Small Businesses Jobs Act of 2010 and the most current SSBCI Policy Guideline available at <a href="http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx">http://www.treasury.gov/resource-center/sb-programs/Pages/ssbci.aspx</a>.</li><li>• As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)). <i>For the purposes of this Certification, Principal means the following: if a sole proprietorship, the proprietor; if a partnership, each managing partner and each partner who is a natural person and holds a 20% or more ownership interest in the partnership; and if a corporation, limited liability company, association or a development company, each director, each of the five most highly compensated executives or officers of the entity, and each natural person who is a direct or indirect holder of 20% or more of the ownership stock or stock equivalent of the entity; and</i></li><li>• Certifies that it will adhere to the following financial institution criteria for all SBLGP enrollments: (1) the loan or investment has not been made in order to place under the protection of the state program prior debt that is not covered under the state program and that is or was owed by the borrower to the lender or to an affiliate of the lender, (2) the loan or investment is not a refinancing of a loan or investment previously made to that borrower by the lender or an affiliate of the lender, and (3) the participating financial institution is not attempting to enroll the guaranteed or unguaranteed portions of SBA-guaranteed loans; and</li><li>• Certifies that all staff involved in the SSBCI enrolled loans attend an annual anti-fraud waste and abuse, ethics training and provide the Financial Development Corporation (FDC) with written verification.</li><li>• Certifies to have a written agreement in place requiring the maintenance of all SSBCI related loan records until at least January 31, 2020.</li><li>• Certifies that it will obtain the following borrower certifications for all SSBCI supported enrollments:<ol style="list-style-type: none"><li>1. The borrower is a "Small Business" as defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations as amended</li><li>2. Borrower obtained a loan in which the funds are for business use in the State of California.</li><li>3. The business and its affiliates have 750 employees or less.</li><li>4. The maximum loan amount is \$20,000,000 and the maximum guarantee is \$2,500,000 per borrower.</li><li>5. The loan proceeds will be used for a "business purpose." Business purpose includes, but is not limited to, start-up costs, working capital, business procurement, franchise fees, equipment, inventory, as well as the purchase, construction renovation or tenant improvements of an eligible place of business that is not for passive real estate investment purposes. The definition of business purpose excludes: activities that relate to acquiring or holding passive investments, such as commercial real estate ownership and the purchase of securities; and lobbying activities, as defined in Section 3(7) of the Lobbying Disclosure Act of 1995, P.L. 104-65, as amended.</li></ol></li></ul>				

*Revised September 2015*

**California Infrastructure and Economic Development Bank  
State Small Business Loan Guarantee Program**

6. The loan proceeds will not be used to:
  - a) Repay a delinquent federal or state income taxes unless the Borrower has a payment plan in place with the relevant taxing authority, and obtains authorization from IBank.
  - b) Repay taxes held in trust or escrow, e.g. payroll or sales taxes.
  - c) Reimburse funds owed to any owner, including any equity injection or injection of capital for the business' continuance.
  - d) Purchase any portion of the ownership interest of any owner of the business.
7. Borrower is not:
  - a) An executive officer, director, or principal shareholder of the lender.
  - b) A member of the immediate family of an executive officer, director, or principal shareholder of the lenders.
  - c) A related interest of an executive officer, director, principal shareholder, or member of the immediate family.

For the purposes of these three restrictions, the terms "executive officer", "director", "principal shareholder", "immediate family", and "related interest" refer to the same relationship to a lender as the relationship described in part 215 of title 12 of the Code of Federal Regulations, or any successor to such part.
8. Borrower is not:
  - a) A business engaged in speculative activities that develop profits from fluctuations in price rather than through normal course of trade, such as wildcatting for oil and dealing in commodities futures, unless those activities are incidental to the regular activities of the business and part of a legitimate risk management strategy to guard against price fluctuations related to the regular activities of the business.
  - b) A business that earns more than half of its annual net revenue from lending activities; unless the business is a non-bank or non-bank holding company Community Development Financial Institutions.
  - c) A business engaged in pyramid sales, where a participant's primary incentive is based on the sales made by an ever-increasing number of participants.
  - d) A business engaged in activities that are prohibited by federal law or applicable law in the jurisdiction where the business is located or conducted. (Included in these activities is the production, servicing, or distribution of otherwise legal products that are to be used in connection with an illegal activity, such as selling drug paraphernalia or operating a motel that knowingly permits illegal prostitution).
  - e) A business engaged in gambling enterprises, unless the business earns less than 33% of its annual net revenue from lottery sales.
9. As required by Section 3011(c)(2) of the Small Business Jobs Act of 2010, the private entity certifies to the State that the Principals of the private entity have not been convicted of a sex offense against a minor (as such terms are defined in section 111 of the Sex Offender Registration and Notification Act (42 U.S.C. 16911)).
- Certifies that there have been no changes to the status of the Participating Financial Institution since the previous agreement.

\* All capitalized terms are defined in either Section 1.1 of the California Small Business Credit Initiative Allocation Agreement or defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations, the Directives and Requirements for the Small Business Finance Center or the California Corporation's Code § 14003.

Any Participating Financial Institution which fails to comply with the above certifications will be suspended from receiving SSBCI contributions.

Authorized Signature

Date

**Name & Title**

Name & Title

California Infrastructure and Economic Development Bank Use Only

Program Manager Signature

Date Received

*Revised September 2015*



## IX. REGULATIONS

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### A. IBank SBLGP Directives & Requirements

#### **CURRENT TEXT OF IBANK SMALL BUSINESS FINANCE CENTER SBLGP DIRECTIVES & REQUIREMENTS (Revised May 24, 2016).**

##### **§ 5000 Definitions**

The following Directives and Requirements are adopted pursuant to the Small Business Financial Assistance Act of 2013 (California Government Code 63088, and California Corporations Code sections 14000 and following) and replace all previous regulations for the Small Business Financial Assistance Act of 2013 Loan Guarantee Programs (SBLGP). These Directives and Requirements may apply to future programs or financing products, or new Directives and Requirements that may be recommended by the Small Business Finance Center and adopted by the IBank Board. In the event of any inconsistency between these Directives and Requirements and the Law, the provisions of the Law shall govern. To the extent that the Law is changed subsequent to the date of the adoption of these Directives and Requirements, these Directives and Requirements shall be deemed amended to bring them into conformity with the Law.

These definitions are subject to the following rules of construction: (i) all references to sections shall be to these Directives and Requirements unless otherwise specified, (ii) the use of examples or the words “including” or “includes” are deemed to be followed by “without limitation” whether or not such is in fact written, and (iii) except where context requires otherwise, the word “or” is used in the inclusive sense. The following definitions supplement those provided by the Law and shall govern the construction of these Directives and Requirements:

**“Application”** means all of the information required by a Lender or Surety to determine whether to offer a Borrower a Loan, or a Principal a Bond.

**“Authorized Farm Costs”** means the costs incurred by a Farm, including:

Operating and production expenses, including the purchase, construction or repair of buildings, machinery, equipment and storage and drying facilities, the purchase of animals, seed and fertilizer, the purchase of real estate and the costs of improvement or repairs thereto.

Costs associated with the purchase of real estate, including easements and rights-of-way to establish or enlarge a Farm.

Costs associated with water development, soil conservation, forestation, drainage, pollution abatement and related measures.

Disaster losses including actual losses incurred in connection with disaster damaged or destroyed farm property or production enterprises, or both, including annual operating and production expenses, construction and improvement of buildings and facilities, and land and water development.

Refinancing debt including the costs associated with the issuance of such debt and lender fees and charges, where the debt to be refinanced was incurred for Authorized Farm Costs. No costs set forth in this clause shall be authorized unless the Farm Lender shall certify that, in the Farm Lender's opinion, sufficient collateral or cash flow exists to reasonably preclude the chance of loan losses.

**“Bond”** means an obligation in writing concerning the construction or service work of Principal, binding the Surety to pay certain sums upon the occurrence of specified events connected to the payment of sums due by the Principal pursuant to a payment bond, and the obligation to complete the construction or service work, pursuant to a performance bond.

**“Bond Guarantee”** means a Guarantee which promises the payment of all or a portion of a Claim.

**“Bond Line”** means a specified amount and term of Bond Guarantee authority which Principal is authorized to apply against any Bond with a specified Surety during the term of the Bond Line.

**“Borrower”** means an eligible business which has received a commitment for a Loan, or has prepared an Application. To be an “eligible business, the business must be either:

A “Small Business” as defined in part 121 of chapter 1 of title 13 of the Code of Federal Regulations as amended;

A Farm Enterprise; or

A non-profit public benefit organization or social welfare organization that has received and maintains tax exempt status under the IRS code 501(c)3 or 501(c)4.

**“Claim”** means a request for payment by a Surety made to a Corporation because of Surety's Loss under a Bond or ILOC secured by a Guarantee, pursuant to section 5010 or 5015.

**“Collateral”** means those personal and business assets of the Borrower or Principal and guarantor subject to a lien under the Loan or Bond.

**“Collection Guarantee”** means a guarantee of a specified percentage of the outstanding Loan principal and ninety (90) days of interest, reduced by any proceeds of the Lender's Liquidation of Collateral as required under Section 5004. A Collection Guarantee will be paid to the Lender only after the Lender has liquidated or made all reasonable efforts in good faith to liquidate all Collateral as required under Section 5004. The total payment made to a Lender under a Collection Guarantee will be the difference between the specified percentage of Loan principal outstanding and ninety (90) days accrued and unpaid interest on the same percentage of the Loan as the Guarantee, and all cash proceeds generated by the Lender in connection with its Liquidation activities required under Section 5004.

**“Corporation”** means any nonprofit California small business financial development corporation created pursuant to this chapter, or pursuant to Chapter 1 (commencing with Section 32000) of Division 15.5 of the Financial Code.

**“Corporate Contract”** means a contract executed exclusively between IBank and any individual Corporation.

**“Default”** means either a Delinquency which has not been cured within ninety (90) days, or that the Borrower is in bankruptcy.

**“Delinquency”** means the failure of the Borrower to make any payment when due, pursuant to the terms of the Loan, except for any principal payment due at the maturity of the Loan.

**“Demand”** means a request for payment by a Lender to a Corporation pursuant to section 5003 or by a Surety to a Corporation pursuant to section 5015.

**“Executive Director”** means the executive director of the California Infrastructure and Economic Development Bank.

**“Encumbrance”** means a Corporation's outstanding Guarantee balance. The effective date is the date of the executed Guarantee agreement or the date of the promissory note, whichever is last, provided that the guarantee is approved by IBank before both the date of the guarantee and the promissory note.

The Guarantee balance is calculated as follows:

For a Term Loan, the Guarantee balance initially is calculated as the original loan amount times the Guarantee percentage, until fully disbursed, then the calculation is the outstanding loan balance times the Guarantee percentage as the outstanding loan balance reduces.

For a Line of Credit Loan or Revolver Loan, the Guarantee balance is calculated as the full amount of the line times the Guarantee percentage.

**“Farm”** means a business which is primarily engaged in producing crops, livestock products or aquatic organisms through the utilization and management of land, water, labor, capital and basic materials including seed, feed, fertilizer and fuel.

**“Farm Borrower”** means a Farm which has applied for, or which has entered into, a Farm Borrower Agreement.

**“Farm Borrower Agreement”** means a written loan agreement whereby the Farm Lender agrees to lend funds to the Farm Borrower to finance Authorized Farm Costs, and which includes at a minimum: a note, security agreement and loan agreement each consistent with commercial practices and containing the following:

A list of Farm Borrower security for the Farm Borrower Loan and plans for at least an annual accounting for security.

The Authorized Farm Costs for which loan funds shall be used.

The interest rate, which shall not exceed five percent (5%) above the prime rate listed in the western edition of the Wall Street Journal on the date of the loan commitment.

The term, which shall not exceed seven years, except for a Guaranteed Farm Borrower Loan. The term of a Guaranteed Farm Borrower Loan shall not exceed that authorized by USDA. The aggregate outstanding balance of loans with a remaining term to maturity in excess of eighty-four (84) months shall not comprise more than twenty-five percent (25%) of the Farm Lender's trust fund account assets.

The loan amount, which shall not exceed the maximum amount allowed by the USDA Farm Service Agency Guaranteed Farm Loan Program.

Default and Liquidation provisions which shall comply with Sections 5114 and 5115, respectively.

Fees pursuant to section 5118.

**“Farm Borrower Loan”** means a Term Loan or Line of Credit Loan from a Farm Lender to a Farm Borrower pursuant to a Farm Borrower Agreement. At least ninety percent (90%) of Farm Borrower Loans funded from the trust fund account, calculated by dollar amount, must be guaranteed by the USDA. In determining the percentage, the numerator is the loan amount for outstanding Guaranteed Farm Borrower Loans, and the denominator is the loan amount of all outstanding Farm Borrower Loans.

**“Farm Enterprise”** means the business of producing crops, livestock products and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials including seed, feed, fertilizer, and fuel.

**“Farm Lender”** means a Corporation that has been approved by the USDA as a lender.

**“Farm Lender Credit Agreement”** means a written agreement whereby IBank agrees to lend funds to Farm Lender, for the purpose of funding Farm Borrower Loan(s). The Farm Lender Credit Agreement may be a Master Agreement, and will include provisions that require the Farm Lender to request disbursement of loan proceeds from IBank only after the Farm Borrower Loan(s) and respective Farm Borrower Agreement(s) have been approved and are in effect. The Farm Lender Credit Agreement will also include provisions covering the following:

Security. No funds shall be disbursed except to fund a previously approved Farm Borrower Agreement assigned as security to the Farm Lender Credit Agreement. As used in this subsection “assigned as security” means:

For a Guaranteed Farm Borrower Loan, that IBank is the Holder, or the guaranteed portion has been sold at par value and the proceeds have been deposited in the trust fund account from which the funds originated.

For a Nonguaranteed Farm Borrower Loan, the Farm Lender Credit Agreement is secured by assignment of all notes, security agreements and similar instruments contained in the Farm Borrower Agreement.

The loan amount, which shall not exceed the total amount of Farm Borrower Loans authorized for the Farm Lender by the Director.



The interest rate, which shall be two percent (2%) below the prime rate listed in the western edition of Wall Street Journal for each respective day for which funds are owed to IBank.

Repayment terms, which shall be based upon the repayment terms in the Farm Borrower Agreement(s) funded with proceeds from the Farm Lender Credit Agreement.

**“Farm Lender Disbursement Request”** means a signed request for disbursement of trust funds under an existing Farm Lender Credit Agreement made in writing to IBank by a Farm Lender in compliance with Section 5111.

**“Farm Loan Guarantee”** means a signed commitment, issued by the USDA, to guarantee payment of all or part of a Farm Borrower Loan.

**“Full Time Equivalent” (FTE)** means the number of full time, part time or other basis employees of a business and its affiliates, in which the employee wages are paid directly from the business, as determined by IRS Federal hourly calculation criteria.

**“Guarantee”** means a written agreement to warrant the repayment of a portion of a Loan or payment of all or a portion of a guarantee payment request. Every Guarantee of a Loan shall be either a Collection Guarantee or Loan Guarantee.

**“Guaranteed Farm Borrower Loan”** means a Farm Borrower Loan which is in whole or part subject to the Guarantee.

**“Holder”** means the person or entity purchasing or assigned a percentage of a loan, other than the Lender who purchases all or part of the Loan.

**“IBank”** means the California Infrastructure and Economic Development Bank.

**“ILOC”** means an irrevocable letter of credit issued by a Corporation as Collateral for a Bond and which complies with the requirements set forth in section 5014.

**“Law”** means the Small Business Financial Assistance Act of 2013 (California Government Code 63088 and following and California Corporations Code sections 14000 and following) or other applicable law.

**“Lender”** means a banking organization, including national banks and trust companies and state chartered commercial banks, savings and loan associations, credit unions, state insurance companies, mutual insurance companies, certified community development financial institutions, microbusiness lender and other banking, lending, retirement, and insurance organizations, authorized to conduct business in California.

**“Leverage”** means the calculation where the numerator is the Encumbrance and the denominator is the trust fund account balance.

**“Line of Credit Loan”** means a Loan, usually structured as interest only, for a term not to exceed seven years, except for a Farm Enterprise Loan which shall have a term not to exceed the term of the

current Farm Borrower Agreement, where the minimum repayment is usually structured as interest only during the term of the loan.

**“Liquidation”** means the exercise of rights provided for in the event of any Default under the Guarantee, a Farm Borrower Agreement or the related Farm Lender Credit Agreement, including the right to foreclose in accordance with the terms of any financing statement, security interest or similar instrument obtained or entered into in relation to such Guarantee, Farm Borrower Agreement or Farm Lender Credit Agreement.

**“Loan”** means a loan extended by a Lender to a Borrower, which is guaranteed pursuant to section 5002, and which is a Term Loan, a Micro Loan, a Line of Credit Loan, or a Revolver Loan.

**“Loan Guarantee”** means a Guarantee of a specified percentage of Loan principal and up to ninety (90) days earned and unpaid interest at the same percentage.

**“Loss”** means any net monetary damages incurred by a Surety arising out of a Claim, or in pursuing the Surety's rights under the indemnity agreement. As used in this subsection, “net monetary damages” means loss payments, completion costs, reasonable attorney's fees, and reasonable out of pocket consultant fees, costs, and expenses, minus amounts recovered by the Surety from any source, including Collateral. The determination of such loss will take into account amounts recovered, but exclude reinsurance. As used herein, “indemnity agreement” means the written agreement whereby Principal agrees to reimburse Surety for any Loss.

**“Master Agreement”** means a contract executed between IBank and one or more Corporations to implement the operating provisions of any of the programs established under the Law.

**“Micro Loan”** means a Loan in which the principal amount does not exceed one hundred thousand dollars (\$100,000).

**“Nonguaranteed Farm Borrower Loan”** means a Farm Borrower Loan not subject to a Guarantee.

**“Principal”** means an eligible business which has received a commitment for a Bond. To be an eligible business, the business must be a “Small Business” as defined in Part 121 of Chapter 1 of Title 13 of the Code of Federal Regulations, as amended from time to time.

**“Program Manager”** means the manager of the California Small Business Finance Center as designated to this title by the Executive Director.

**“Revolver Loan”** means a Line of Credit Loan which converts to a Term Loan after a specified time indicated in the loan agreement.

**“Surety”** means an insurance company licensed by the California Department of Insurance, and authorized to conduct business in California.

**“Suspension”** means that a Corporation is no longer registered with the Secretary of State as a small business development corporation and shall not enjoy any of the benefits of a small business development corporation.

**“Term Loan”** means a Loan that usually has regularly scheduled reductions in principal balance.

**“USDA”** means the United States Department of Agriculture.

### **§ 5001 Guarantee Procedures**

The Lender applying for a Guarantee shall provide a completed Borrower application to the Corporation for review and processing in accordance with the following procedures:

(a) No Guarantee shall be executed by a Corporation until the proposed Guarantee has been reviewed by the Corporation's loan committee and approved by its Board of Directors, unless the Corporation's Board of Directors has delegated the authority to approve a proposed Guarantee to the Corporation's loan committee, and such delegation is in accordance with IBank policy referenced in the Corporate Contract. No Guarantee shall be approved or executed by a Corporation if the Lender is the same entity as the Corporation or an affiliate of the Corporation or Lender.

(b) Upon completion of the review and approval by the Corporation's loan committee and/or Board of Directors, the Corporation shall issue a commitment to Guarantee and execute a Guarantee to the Lender.

(c) In the event that a Guarantee is issued to a Lender without first complying with the requirements of subsection (a), and the Lender relies upon the Guarantee in making the Loan, the failure by the Corporation to so comply shall not constitute a defense on the part of either IBank or the Corporation to paying a Demand for payment made pursuant to section 5003.

(d) In any case where funds are disbursed to a Lender pursuant to a Demand and the Corporation has failed to comply with subsection (a), IBank may immediately exercise all available legal remedies to recover from the Corporation the funds disbursed pursuant to the Demand.

### **§ 5002 Guarantee Terms**

(a) Following adoption of a resolution by its board of directors, a Corporation shall be (authorized to issue a commitment specifying the conditions under which it will issue a Guarantee to a Lender for a specified Loan.

(b) The terms and conditions of a Guarantee shall be consistent with the resolution of the Corporation approving the Guarantee and shall include all of the following:

(1) The Corporation's promise to pay up to eighty percent (80%) of the outstanding principal, and accrued yet unpaid interest up to 90 days at the same guarantee percentage, on a Loan in which the Guarantee is approved in accordance with IBank policy referenced in the Corporate Contract, subject to the following restrictions:

(A) The Lender has complied with all material conditions contained in the Guarantee, including perfecting Collateral; and

(B) The Lender has not engaged, and will not engage, in fraudulent or negligent practices in connection with the Borrower, Guarantee, the Loan or the related loan agreement.

(2) The duration of a Guarantee shall not exceed seven (7) years, except for a Line of Credit Loan to a Farm Enterprise, where the duration of a Guarantee shall not exceed the term of the current Farm Borrower Agreement and in no event seven (7) years.

(3) A Corporation shall not waive a fee or charge more or less than the amount determined by the Corporate Contract. The Corporation shall not charge an annual servicing fee on loan guarantees. The Corporation shall be authorized to charge the following Loan Guarantee fees in accordance with the Corporate Contract:

(A) A Loan Guarantee documentation fee of \$250.00.

(B) A Loan Guarantee fee not to exceed three percent (3%) of the principal amount guaranteed. The Executive Director will set the fee percentage at the time of the Corporate Contract execution and may not change the fee percentage more than twice in each fiscal year.

(4) A description of the procedures and the responsibilities of the Lender and Corporation subsequent to Default.

(5) Section 5003 Demand procedures.

(6) Agreement to abide by binding arbitration by the American Arbitration Association in the event that either the Corporation or IBank denies the requested Demand pursuant to section 5003(d)(2) or (e)(2), or the amount paid to the Lender is less than the amount contained in the Demand Letter.

(9) Acknowledgment by the Lender that in the event of a Demand, the Lender will allow a bank examiner at the California Department of Business Oversight, or other independent auditor selected by the Corporation, to examine the Lender's Loan files.

(10) A designation as to whether the Guarantee is a Collection Guarantee or Loan Guarantee.

(11) A statement that the maximum amount of interest to be paid is accrued and unpaid, not to exceed ninety (90) calendar days at the guaranteed percentage.

(12) The maximum Guarantee amount for any business is \$2,500,000.00. The maximum Loan amount for any business is \$20,000,000.00, unless specific written approval is obtained from the Executive Director for a larger loan amount.

(13) The small business receiving the loan guaranteed under the SBLGP, a direct loan, or a bond guarantee, must create or retain at least one Full Time Equivalent (FTE) employee as a result of the Loan. This minimal Directive and Requirement is in lieu of a preferred ratio guideline since IBank encourages program participation of single owner operator businesses.

(14) The owner(s) of the business receiving a Loan guaranteed under the SBLGP, a direct loan, or a bond guarantee, shall have at least \$1.00 of equity interest in the business at the time of the Loan. This

minimal Directive and Requirement is intended to promote those businesses that may be under-capitalized yet have been deemed credit worthy, due to its other attributes, by a Lender.

### **§ 5003 Guarantee Demand Procedures**

(a) The Lender shall be authorized to make a Demand upon the Corporation executing the Guarantee for repayment of the unpaid Loan principal and interest pursuant to the terms of the Guarantee, upon compliance with the following:

(1) Providing proof to the Corporation that the Borrower is in Default under the applicable loan agreement and Lender has delivered to both the Borrower and the Corporation a minimum of two letters subsequent to the Delinquency, at least thirty (30) days apart, explaining the consequences for failure to remedy the Delinquency in a manner consistent with the applicable loan agreement. This requirement shall not apply if the Borrower is in bankruptcy.

(2) If the Guarantee is a Collection Guarantee, providing proof to the Corporation that the Lender has complied with the liquidation requirements of section 5004.

(b) The Lender shall deliver to the Corporation executing the Guarantee a Demand Letter requesting immediate payment of the guaranteed portion of the allowable accrued and unpaid Loan interest and outstanding principal, and documenting compliance with subsection (a) and the applicable loan agreement.

(c) Within ten (10) business days of receipt of the Demand letter, the Corporation shall contract with the California Department of Business Oversight or an independent auditor to conduct an investigation to determine whether the Lender has complied with the terms of the Guarantee, and to issue a report to the Corporation. The report shall describe the findings of the investigation for each of the following issues:

(1) Whether the Loan agreement between the Borrower and Lender is consistent with the terms and conditions in the Guarantee.

(2) Whether all Collateral for the Loan and Guarantee have been perfected and maintained.

(3) Whether all Collateral is available for assignment to the Corporation in the event that payment is made upon the Demand.

(4) Whether any Collateral is not available as a result of Lender's negligence, breach of contract, foreclosure or other cause.

(5) If the Guarantee is a Collection Guarantee, whether the Lender has complied with the liquidation procedures of section 5004.

(6) Calculation on the outstanding principal and interest owed.

(7) Whether the Lender complied with the procedures for making a Demand under section 5003(b).

(8) In a section entitled "Loan Information" the report shall include the following information obtained solely from a review of Lender files: a description of the Borrower's business, a description of the Collateral for the Loan, and a discussion as to whether the Lender files contain any reference to matters material to Borrower's compliance with any environmental laws or regulations. The description of Collateral shall identify all real property Collateral as one or more of the following: industrial, commercial, agricultural, single family residence, multi-unit residential, vacant lot, unknown.

(9) A history of loan payments and collection efforts.

(d) Within ten (10) business days of receiving the California Department of Business Oversight or independent auditor's report, the Corporation shall do one of the following:

(1) Deliver to IBank a request for payment on the Demand, along with: a copy of the report described in subsection (c), delinquency notification and liquidation efforts described in subsection (a), the Demand, and a calculation of the amount owed pursuant to the Guarantee; or

(2) Deliver to the Lender, with a copy simultaneously delivered to IBank, a refusal to make payment pursuant to the Demand, and detailing the reasons for refusal.

(e) Within ten (10) business days from the date IBank receives the request for payment on the Demand and a copy of the report described in subsection (c), IBank shall do one of the following and inform the Corporation of such action:

(1) Deliver or cause to be delivered to the Corporation a check in an amount not to exceed the amount contained in the Demand Letter, made payable to the Lender; or

(2) Deliver or cause to be delivered to the Corporation a denial of the request for payment to the Corporation based upon noncompliance with the requirements of applicable law, regulations, rules or guidelines, these Directives and Requirements or fraud or negligence on the part of the Lender.

(3) Deliver or cause to be delivered to the Corporation a statement that the investigation or report was incomplete, and requiring the Corporation to complete the investigation and report and resubmit the request for payment to IBank within ten (10) business days from the date the statement is received by the Corporation.

(f) The amount paid to the Lender pursuant to a Demand Letter shall be less than the amount contained in the Demand Letter only under the following circumstances:

(1) The Demand contains an incorrect calculation of the amount owing;

(2) The amount owing on the Loan has been reduced by subsequent payments from the Borrower to the Lender;

(3) The Lender has engaged in fraudulent activities pertaining to the Loan; or

(4) The Loan and/or the Guarantee is not in compliance with the requirements of applicable law, regulations, rules or guidelines or these Directives and Requirements; or

(5) The report identifies fraud or negligence on the part of the Lender

(g) Within five business days of receiving the check from or on behalf of IBank, the Corporation shall contact the Lender and arrange to deliver the check to the Lender. The Corporation shall deliver the check and simultaneously collect an assignment by the Lender of the Lender's interest in the Loan. The assignment shall include the Loan Note and all Collateral, except as provided in section 5004.

(h) The Guarantee shall include a provision for binding arbitration in the event that either the Corporation or IBank denies the requested Demand pursuant to subsections (d)(2) or (e)(2), or the amount paid to the Lender is less than the amount contained in the Demand Letter.

(i) Demand must be made upon the Corporation no later than noon on the ninetieth calendar day following the date on which the Guarantee terminates; provided, however, that if the ninetieth day is not a day upon which the Corporation is open for business, the last day for making a Demand shall occur on the next succeeding day upon which the Corporation is open for business.

#### **§ 5004 Guarantee Collection Requirements for Collection Guarantees**

(a) A Lender shall not be authorized to file a Demand for a Collection Guarantee unless it has complied with this section. The requirements contained in this section are in addition to the requirements contained in section 5003.

(b) The Lender must liquidate all Collateral, but shall not be required to file a lawsuit against any Borrower or guarantor. "Liquidate" as used in this paragraph means that the Lender has exhausted all Collateral by one of the following methods:

(1) converted the Collateral into cash;

(2) demonstrated, to the satisfaction of the Corporation that the Collateral is without sufficient value to convert to cash; or

(3) demonstrated that the Borrower has filed for bankruptcy.

#### **§ 5005 Corporation Requirements**

The following Directives and Requirements are in addition to Corporation requirements of Corporations Code section 14000 et seq., and the Small Business Financial Assistance Act of 2013:

A Corporation in existence less than 5 years shall adhere to the same Laws and Directives and Requirements as Corporations in existence for more than 5 years, except for a probationary period as indicated in Corporations Code Section 14012.

A Corporation is to maintain a default rate of less than 5% of all of its outstanding guarantees.

A Corporation must enroll at least one federally supported guarantee, or in the absence of federal funds under the program, one state fund supported guarantee per fiscal year.

A Corporation must provide all documents related to the Small Business Finance Center programs that are requested from time to time by the Executive Director by the deadline specified by the Executive Director.

#### **§ 5006 Additional Clarifications**

(a) The return on funds from investments may be used for program purposes, including administrative expenses of the IBank and/or the Corporations, at the Executive Director's discretion.

(b) The Executive Director or Program Manager may create a trust fund account to be shared by multiple Corporations (pooled account) for program uses. The designation of an individual trust fund or a shared trust fund account will be determined by the Executive Director or Program Manager and written in the Corporate Contract.

(c) In the event of suspension or termination of a Corporation the funds of a Corporation's trust fund account may be transferred to reside in the expansion fund. Use of the principal on the funds shall be governed by the same use of funds in Government Code section 63089.5(b). Since it is the intent to pool the trust fund, it is unlikely a Corporation's trust fund would reside in the expansion fund. If this were to occur, the fund would be used for previously established purposes.

(d) Corporations shall adhere to the State Small Business Credit Initiative (SSBCI) rules and guidance when supporting a guarantee with SSBCI federal funds. The rules and guidance include, but are not limited to the following resources; the Small Business Jobs Act of 2010, the California Allocation Agreement, SSBCI Policy Guidance, National Standards for Compliance and Oversight, the SSBCI F.A.Q's, and the FDC Policy Manual.

#### **§ 5008 SURETY BONDS**

(a) A Principal shall be authorized to apply to a Corporation for either a Bond Guarantee, or a Bond Line.

(b) A Principal applying for a Bond Guarantee or a Bond Line shall provide a complete Application to the Corporation for review and processing in accordance with the following procedures:

(1) The proposed Guarantee has been reviewed by the Corporation's Bond loan committee and approved by its board of directors.



(2) Upon compliance with subsection (b)(1), the Corporation shall issue a commitment to provide a Bond Guarantee or Bond Line and an executed Bond Guarantee or Bond Line to the Surety.

(3) In the event that a Guarantee is issued to a Surety without first complying with the requirements of subsections (b)(1) and/or (c), and the Surety relies upon the Guarantee in issuing the Bond, the failure by the Corporation to so comply shall not constitute a defense on the part of either IBank or the Corporation to paying a Claim.

(4) In any case where funds are disbursed to a Surety pursuant to a Claim and the Corporation has failed to comply with subsections (b)(1) and/or (c), IBank may immediately exercise all available legal remedies to recover from the Corporation the funds disbursed pursuant to the Claim.

(c) Any change to a Bond Guarantee or Bond Line pursuant to section 5009(e)(5) that amends the terms contained in the resolution by the Corporation's board of directors approving the Guarantee must be approved by the Corporation board of directors.

### **§ 5009 SURETY BOND TERMS**

The terms and conditions of a Bond Guarantee or Bond Line shall be consistent with the resolution of the Corporation approving the Bond Guarantee or Bond Line and shall include all of the following:

(a) The Corporation's promise to pay Losses up to ninety percent (90%) of the Bond, not to exceed five hundred thousand dollars (\$500,000), subject only to the restriction that the Surety has not engaged in negligence, misrepresentation, fraud, or material breach of the terms of the Guarantee in writing, issuing, or servicing the Bond.

(b) The Guarantee shall expire two hundred and ten days (210) following final payment by the party requiring the Bond (Obligee) of all amounts owed to Principal pursuant to the contract bonded, so long as no notice of claims has been received by Surety and is pending as of that expiration date. In the event that a notice of claim is pending as of that expiration date, the Guarantee shall remain in effect until resolution of that claim.

(c) A Corporation Bond Guarantee fee not to exceed three percent (3%) of the Guarantee amount. In the case of a Bond Line, the fee shall be charged for each Guarantee.

(d) The terms and conditions of the Bond subject to a Guarantee which shall be in accord with those generally established and accepted by the Surety for the type of contract for which the Bond is required.

(e) A statement that Surety would not provide the Bond without the Guarantee.

(f) Consistent with Surety's underwriting and claims handling procedures, Surety shall take all reasonable action necessary to minimize risk of Loss, including but not limited to the taking of Collateral and obtaining personal guarantees, and Surety will pursue all possible sources of recovery.

(g) If any suit is filed against Surety upon the Bond, Surety shall immediately inform Corporation of receipt of notice thereof and shall take charge of all suits or claims arising under the Bond and compromise, settle or defend such suit or claim. Surety shall take all steps necessary to mitigate the Loss resulting from Principal's default. Surety shall not join Corporation in any lawsuit to which Surety is a party unless Corporation has denied a Claim.

(h) Liability of the Corporation under the Guarantee shall be reduced if the Guarantee requires Surety to take Collateral, and Surety fails to obtain and perfect the Collateral. In the event that the Surety fails to take or perfect Collateral required by the terms of the Guarantee, the liability of the Corporation

pursuant to the Guarantee shall be reduced by the Guarantee percentage of the amount which could reasonably have been recovered by liquidating the Collateral.

(i) The terms of the Guarantee shall not be waived, changed or altered unless both Corporation and Surety's authorized representative have signed and dated assent thereto.

(j) Corporation shall have access to and the right to audit and inspect any and all documents maintained by the Surety related to the Bond. The audit shall be conducted in a reasonable manner during business hours or as otherwise agreed upon between Corporation and Surety.

(k) The Guarantee is made exclusively for the benefit of Corporation and Surety and does not confer any rights or benefits to any other party. In the event of the Surety's insolvency, Corporation shall not be liable to the receiver or trustee of the insolvent estate except for any Loss.

(l) In the case of a Bond Line, the document shall also specify the following:

(1) The Bond Line shall only apply to Bonds issued by the identified Surety, to the specified Principal.

(2) No Bond shall be guaranteed under the Bond Line if that Bond is dated either before the effective date of the Bond Line, or later than 365 days following the effective date of the Bond Line.

(3) The Bond Line shall specify the guarantee percentage for the Guarantees issued under the Bond Line.

(4) The Bond Line shall specify the maximum Guarantee authority, which shall not exceed \$500,000. The combined Guarantee liability of all Bonds outstanding for a specific Principal shall not exceed \$1,000,000. A Principal with a Bond Line shall obtain a Guarantee under the Line by sending a copy of the Bond to the Corporation, which shall sign and attach to the Bond a statement that the Bond is guaranteed by the Corporation pursuant to the terms of the Bond Line. This statement shall be signed so long as the Principal and Bond comply with the terms of the Bond Line.

(5) It shall be the responsibility of the Surety to notify the Corporation when a Guarantee under a Bond Line has expired.

## **§ 5010 SURETY BOND PROCEDURES**

a) Surety shall be entitled to reimbursement for the percentage of its Loss covered by the Guarantee, adjusted pro rata for payments received by Surety from any other source, excluding reinsurance, upon compliance with the following:

(1) Surety shall notify Corporation in writing within forty-five (45) days after the end of each calendar quarter after the Surety has established a claim reserve on the Claim.

(2) Ninety (90) days after notice to Corporation that the claim reserve has been established and every thirty (30) days thereafter, unless mutually agreed upon otherwise, Surety shall provide Corporation with the current status of the Claim, including salvage prospects, and proof of payment by Surety of the Claim. Claim reporting can be on Corporation's Current Status Report form or Surety's equivalent.

(3) Surety shall invoice the Corporation quarterly for any Loss, except that Surety shall be authorized to invoice the Corporation monthly for a Loss in excess of five thousand dollars (\$5,000). Corporation shall submit for payment to IBank within twenty (20) days of receipt, any invoice received from a Surety for a Loss that complies with the requirements of this article.

(b) After payment has been made by Corporation to Surety pursuant to (a) above, if any net amount is recovered by Surety from any other source, excluding reinsurance, Corporation is entitled to the Guarantee percentage of said net amount upon actual receipt by the Surety. Subrogation efforts shall be discontinued by Surety only after providing Corporation with written documentation substantiating insolvency or the inability to pay on the part of Principal or others who agreed to indemnify the Surety, unless otherwise mutually agreed by the Surety and Corporation. In the event of discontinuation of subrogation efforts by Surety, the Surety will assign all of its right, title and interest to recovery to the Corporation.

### **§ 5013 ILOC AS BOND COLLATERAL PROCEDURES**

A Principal shall be authorized to apply to a Corporation for an ILOC. A Principal applying for an ILOC shall provide a completed Application to the Corporation for review and processing in accordance with the following procedures:

(a) The proposed ILOC has been reviewed by the Corporation's Bond loan committee and approved by its board of directors.

(b) Upon compliance with subsection (a), the Corporation shall issue an ILOC commitment and an executed ILOC to the Surety.

(c) In the event that an ILOC is issued to a Surety without first complying with the requirements of subsection (a) and/or (e), and the Surety relies upon the ILOC in issuing the Bond, the failure by the Corporation to so comply shall not constitute a defense on the part of either IBank or the Corporation to paying a Demand.

(d) In any case where funds are disbursed to a Surety pursuant to a Demand and the Corporation has failed to comply with subsections (a) and/or (e), IBank may immediately exercise all available legal remedies to recover from the Corporation the funds disbursed pursuant to the Demand.

(e) Any change to a Bond Guarantee or Bond Line pursuant to section 5014(f)(3) must be approved by the Corporation board of directors if the change amends the terms contained in the resolution by the Corporation board of directors approving the Guarantee.

### **§ 5014 ILOC AS BOND COLLATERAL TERMS**

The terms and conditions of an ILOC shall be consistent with the resolution of the Corporation approving the ILOC and shall include all of the following:

(a) Provision that the Corporation promises to pay a specified amount to Surety upon Surety establishing a claim reserve.

(b) The maximum amount of the ILOC shall be 15% of the contract amount, not to exceed \$350,000.

(c) Where the Bond is for a public works project, a statement that the ILOC shall expire one hundred and twenty (120) days following receipt by Surety of a statement from the party requiring the Bond ("Obligee") that the work has been completed and fully accepted and that Obligee has made payment of all amounts owed the Principal pursuant to the Bond. The ILOC shall expire only if no notice of Claim is pending with the Surety. If the Bond is for other than a public works project, then the Corporation and Surety shall include in the ILOC what events and timing trigger expiration of the Guarantee.

(d) The Corporation fee not to exceed three percent of the ILOC amount.

(e) The terms and conditions of the Bond collateralized by the ILOC shall be in accord with those generally established and accepted by the Surety for the type of contract for which the Bond is required.

(f) A statement that Surety would not provide the Bond without the ILOC.

(g) Surety shall not join Corporation in any lawsuit to which Surety is a party unless Corporation has denied a Demand.

(h) The terms of the ILOC shall not be waived, changed or altered unless both Corporation and Surety's authorized representative have signed and dated assent thereto.

(i) Corporation shall have access to and the right to audit and inspect any and all documents related to the Bond. The audit shall be conducted in a reasonable manner during business hours or as otherwise agreed upon between Corporation and Surety.

(j) The ILOC is made exclusively for the benefit of Corporation and Surety and does not confer any rights or benefits to any other party. In the event of the Surety's insolvency, Corporation shall not be liable to the receiver or trustee of the insolvent estate except for any Loss.

#### **§ 5015 ILOC AS BOND COLLATERAL DEMAND PROCEDURES**

(a) Upon the establishment of a claim reserve connected to the Bond, Surety shall be authorized to make Demand upon the Corporation for an amount equal to the Loss incurred, and reasonably expected to be incurred within the next sixty (60) calendar days by the Surety.

(b) Demand shall be made in writing, and shall include a statement that a Claim reserve has been established, shall explain why the Claim reserve has been established, and shall specify the amount of the Demand.

(c) Corporation shall mail to Surety, not later than ten (10) calendar days from receipt of Demand, either the amount included in the Demand or an explanation of why the amount requested in the Demand will not be paid by the Corporation. The only reasons for refusing to pay the amount included in the Demand are:

(1) No Claim reserve has been established for the Bond covered by the ILOC.

(2) The amount requested in the Demand lacks reasonable supporting documentation.

(d) After payment has been made by a Corporation, if any net amount is recovered by Surety from any other source, excluding reinsurance, Corporation is entitled, upon actual receipt by the Surety, to the percentage of said net amount which equals the ILOC funds paid as a percentage of Loss paid by the Corporation. Subrogation efforts shall be discontinued by Surety only after providing Corporation with written documentation substantiating insolvency or the inability to pay on the part of Principal or others who agreed to indemnify the Surety, unless otherwise mutually agreed by the Surety and Corporation. In the event of discontinuation of subrogation efforts by Surety, the Surety will assign all of its right, title and interest to recovery to the Corporation.

#### **§ 5111 DISBURSEMENT OF FARM LENDER LOAN FUNDS**

(a) No Farm Borrower Agreement shall be executed by a Corporation until the proposed Farm Borrower Loan has been reviewed by the Corporation's loan committee and approved by its board of directors, unless the Corporation's board of directors has delegated the authority to approve a proposed Farm Borrower Loan to the Corporation's loan committee. Approval of the Farm Borrower Loan shall be

evidenced by adoption of a corporate resolution approving the loan. The Corporation shall retain the resolution and the minutes of loan committee and board of directors meetings at which the loan was discussed and approved, including any conditions placed on the loan.

(b) Disbursement of loan proceeds to the Farm Lender for Farm Borrower Loans will be made only if the Farm Lender is a party in good standing to an existing Farm Lender Credit Agreement.

(c) Within ten (10) business days of receiving a Farm Lender Disbursement Request for a previously approved Farm Borrower Loan, IBank shall notify the Farm Lender of disbursement approval, provided:

(1) Funds are available in a trust fund account to meet the request contained in the Farm Lender Disbursement Request. The available fund for direct loans is no more than twenty percent (20%) of the aggregate trust fund(s) available for State lending programs in the Small Business Guarantee Loan Program.

(2) The disbursement is in connection with an executed Farm Borrower Agreement.

(3) The disbursement request is consistent with the funding requirements of the related Farm Borrower Agreement. Evidence of the consistency consists of a budget showing amounts previously disbursed to the Farm Lender in connection with such Farm Borrower Loan, amount of loan proceeds lent by the Farm Lender to the Farm Borrower, and the date upon which it is projected that the money to be disbursed pursuant to this section shall be lent by the Farm Lender to the Farm Borrower.

(d) IBank will set aside the original principal amount of the loan request, minus any disbursements, in the trust fund as its commitment to future disbursements. Funds will be released back to the trust fund as the balance of the loan decreases.

(e) In any case where funds are disbursed to a Corporation pursuant to a Farm Lender Disbursement Request and the Corporation has failed to comply with subsection (a), IBank may immediately exercise all available legal remedies to recover from the Corporation the funds disbursed pursuant to the Farmer Lender Disbursement Request.

#### **§ 5112 RELEASE OF FARM LOAN FUNDS**

(a) Farm Lender shall lend funds received pursuant to a Farm Lender Credit Agreement to a Farm Borrower only upon compliance with the following conditions precedent:

(1) For a Nonguaranteed Farm Borrower Loan, or for a Guaranteed Farm Borrower with a loan that cannot be legally assigned or sold, assignment to IBank of the Farm Borrower Agreement note, together with an assignment of any financing statement, security interest or similar instrument obtained or entered into pursuant to the related Farm Borrower Agreement, perfected by a UCC-1 public notice.

(2) For a Guaranteed Farm Borrower Loan:

A Guarantee has been executed, and either assigned to IBank or sold pursuant to section 5116, and

A certification by the Farm Lender that it has complied with or has taken all actions which are in its opinion necessary to comply with any conditions precedent to the issuance of such Guarantee required by USDA; provided, however, that for the purposes of this section, payment of funds to the Farm Borrower shall not be deemed to be such a condition.

(b) Farm Lender shall provide evidence of compliance with subsection (a) to IBank within seven (7) days of disbursement of funds to a Farm Borrower.

### **§ 5113 FARM LOAN ACCOUNTING AND REPORTING**

Lender shall establish an account which shall be used solely to record disbursements and repayments for Farm Borrower Loans and Farm Lender Loans. The account shall have separate sub-ledgers which shall correspond to each specific Farm Lender Credit Agreement and Farm Borrower Agreement. Funds shall only be withdrawn from Farm Lender Credit Agreement sub-ledgers for subsequent payment to a Farm Borrower, for payments to the trust fund account or upon written authorization of IBank. Funds shall only be withdrawn from Farm Borrower Agreement sub-ledgers for payments to the trust fund account, to the Holder or upon written authorization of IBank.

(b) The Farm Lender shall reconcile the two sets of sub-ledgers monthly. One set shall consist of all activities for each Farm Borrower Loan, including payment and repayment information. Farm Lender shall maintain these reconciliations at its principal place of business. The second reconciliation shall consist of all Farm Lender Loan activity. Farm Lender shall submit these reconciliations to IBank monthly.

(c) All records established and maintained in connection with the account and its sub-ledgers shall be available upon reasonable notice for audit by IBank or its designee, and shall be maintained for a three (3) year period following the expiration of the related Farm Lender Credit Agreement or Farm Borrower Agreement

### **§ 5114 FARM LOAN DEFAULTS**

(a) A Default of a Farm Borrower Agreement shall be a default of outstanding trust fund account funds under the related Farm Lender Credit Agreement. Farm Lender shall provide IBank with written notice that a Default has occurred within fourteen (14) days of either failure by the Farm Borrower to make payment at loan maturity or filing for bankruptcy by Farm Borrower.

(b) With respect to a Default on a Guaranteed Farm Borrower Loans, the procedures to be followed by a Farm Lender shall be those specified by USDA. If no such procedures exist, the procedures specified in subsection (c) hereof shall apply.

(c) With respect to a Default on a Nonguaranteed Farm Borrower Loans, the procedures to be followed by a Farm Lender shall be set forth in the Farm Borrower Agreement and the related Farm Lender Credit Agreement, and shall include the following:

A meeting shall be arranged by the Farm Lender with the Farm Borrower upon occurrence of a Default to resolve the problem. Actions taken by the Farm Lender may include, the following:

Deferment of principal payments

An additional temporary loan by the Farm Lender to bring the account current

Re-amortization of or rescheduling the payments on the loan

Reorganization

Subsequent loan guarantees

Changes in the interest rate, upon approval of IBank

(2) The Farm Lender shall negotiate in good faith in an attempt to resolve any problem to permit the Farm Borrower to cure a Default; provided that, in the opinion of the Farm Lender, the proposed resolution is economically feasible.

(3) If, within ninety (90) days following receipt by IBank of the notice provided for in subsection (a), the Farm Lender is unable to resolve to its satisfaction any Default, then Farm Lender shall institute Liquidation proceedings.

#### **§ 5115 FARM LOAN LIQUIDATION**

(a) With respect to Guaranteed Farm Borrower Loans, Liquidation shall follow the procedures required by USDA; provided, however, that any reports made to USDA in connection with such Liquidation shall also be given to IBank. If no such procedures exist or apply, the procedures specified in subsection (b) shall apply.

(b) With respect to Liquidation of a Nonguaranteed Farm Borrower Loan, a Liquidation plan shall be prepared by the Farm Lender and delivered to IBank. The Liquidation plan shall specify the steps Farm Lender intends to take for Liquidation of the Farm Borrower Loan, including proposed costs. Unless the Farm Borrower receives written objections to the Liquidation plan from IBank within fourteen days of submitting the plan to IBank, the plan shall be deemed approved by IBank. In the event Farm Lender receives a written objection to the plan from IBank within the fourteen days, IBank and Farm Lender shall negotiate a mutually acceptable Liquidation plan.

(c) Liquidation recoveries made in connection with Nonguaranteed Farm Borrower Loans shall be applied in the following order of priority.

(1) To pay Liquidation costs approved by IBank.

(2) To pay accrued interest and late fees.

(3) To pay principal.

(4) To pay fees owed to the Farm Lender, pursuant to Section 5118.

(d) With respect to Liquidation in connection with either Guaranteed or Nonguaranteed Farm Borrower Loans, the Farm Lender shall not initiate any judicial remedy without the prior written approval of IBank.

#### **§ 5116 SALE OF THE GUARANTEED PORTION OF THE FARM BORROWER LOAN**

Farm Lender is authorized to negotiate the sale of the guaranteed portion of the Farm Borrower Loan, if allowed by law, together with the Guarantee, to third parties. The sale shall result in the receipt by the Farm Lender of a sum no less than the outstanding balance owed on the guaranteed portion of the Farm Borrower Loan being sold. The Farm Lender shall deposit the funds received into the trust fund account from which the loan funds were disbursed.

#### **§ 5117 FARM LOAN PAYMENTS**

(a) Payments received from repayment of a Farm Borrower Loan shall be allocated to Farm Lender, trust fund account and, if applicable Holder, based upon the percentage ownership of the Farm Borrower Loan. As an illustrative example, if the Holder owns ninety percent (90%) and the trust fund account owns the remaining ten percent (10%), then the principal and interest payments are divided 90/10, except that the portion of the interest owed the trust fund account shall be based upon the Farm

Lender Credit Agreement interest rate (two points below prime) and not the Farm Borrower Agreement (five points above prime). Payment shall be received by the trust fund account and if applicable Holder within forty-five (45) days of the Farm Lender receiving the funds from Farm Borrower.

(b) IBank shall periodically audit Farm Lender's calculation of interest and principal owed under Farm Lender Credit Agreement, and send written notice to Farm Lender specifying any error in the calculation, and the amount of the discrepancy. If the letter specifies that Farm Lender owes additional funds, Farm Lender shall pay funds to the appropriate trust fund account within seven days of receiving the letter from IBank. If the letter specifies that Farm Lender paid more than was owed, Farm Lender shall apply the overpayment to the next payment due to IBank.

(c) Any sum disbursed to the Farm Lender pursuant to section 5111 and not lent to Farm Borrower within six (6) months from the date of such disbursement shall be repaid by Farm Lender within five (5) working days of notification by IBank, and the Farm Lender shall have no further rights with respect to such funds.

#### **§ 5118 FARM LOAN FEES**

The Farm Lender shall be authorized to charge the Farm Borrower a fee of three percent (3%) of the amount of the Farm Borrower Loan, in addition to the current fee required to be paid to USDA on any Guaranteed Farm Borrower Loan. In the event of a loan to a Nonguaranteed Farm Loan Borrower, the fee shall not exceed that specified in Government Code Section 63089.67.

#### **§ 5020 SECONDARY MARKET**

(a) The Lender shall have the option of retaining all of the Loan. If the Lender desires to assign or participate all or a portion of the guaranteed portion of the Loan at or subsequent to Loan closing, the Loan must not be in Default. The Lender is not permitted to assign or participate any amount of the guaranteed or unguaranteed portions of the Loan to any of the following:

(1) the Borrower, or member of the immediate family of the Borrower, their officers, directors, stockholders, other owners or any parent, subsidiary or affiliate;

(2) a Corporation or any employee or a member of the Board of Directors of a Corporation or

(3) any employee of IBank.

(b) The Lender may assign all or part of the guaranteed portion of the Loan to one or more Holders, except that the Lender is required to retain a minimum of ten percent (10%) of the Loan amount, and the Lender shall retain the responsibility for servicing the Loan.

(c) The Lender shall notify the Corporation of the assignment no later than forty-five (45) days following the assignment. No later than fifteen (15) days following the notification provided by the Lender, the Corporation shall register the assignment by completing and submitting the Assignment Registration Form (Form CTCA-047, new, 1998) to IBank. No later than thirty (30) days following the submission of the Assignment Registration Form, IBank shall notify the Lender and Holder of the registration.

(d) The Assignment Registration Form shall consist of the items listed below:

(1) The date of assignment or participation.

(2) The Loan number.



(3) A description of the Loan including: whether the Loan is a credit agreement or a promissory note, the date the Loan was executed, and the name of the Borrower.

(4) The outstanding balance of the Loan.

(5) The percent of Guarantee assigned to the Holder.

(6) A certification that the Loan is not in Default and not a pending Default.

(7) A certification that Holder complies with the requirements described in subsections (a)(1) through (a)(3).

(8) The Holder's contact person, mailing address, telephone number, and if available facsimile number and e-mail address.

(9) The Lender's contact person, mailing address, telephone number, and if available facsimile number and e-mail address.

(10) The titles and dated signatures of the Lender, the Holder, and the Corporation.

(e) When a guaranteed portion of a Loan is sold by the Lender to a Holder, the Holder shall succeed to all rights of Lender under the Guarantee in proportion to the amount of the Loan purchased. The Lender shall remain bound to all the obligations under the Guarantee.

(f) The Lender shall be responsible for servicing the entire Loan, and shall remain the secured party of record. The entire Loan shall be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the Loan.


(g) The Guarantee and right to issue a Demand will be directly enforceable by Holder notwithstanding any fraud or misrepresentation by Lender or any unenforceability of the Guarantee by Lender, unless Holder has actual knowledge of said fraud, misrepresentation or unenforceability of the Guarantee prior to purchase. Notwithstanding the provisions of section 5003(a), the Holder shall be authorized to make Demand upon the Lender, with a copy sent to the Corporation, when any payment owed pursuant to the Loan is sixty (60) days in arrears, and the Holder shall be under no obligation to delay Demand pending liquidation of Collateral if the Loan is a Collection Guarantee. If Holder has not received a response with thirty (30) days agreeing to purchase the guaranteed portion of the Loan, the Holder shall be authorized to send a Demand to the Corporation. It shall be the responsibility of the Corporation to verify the Demand figures provided by the Holder with the Lender. In any dispute the Lender Demand figures shall be used. The Holder shall be entitled to receive interest on the unpaid portion of the guaranteed portion of the Loan until the Demand payoff is mailed to the Holder.

(h) Nothing contained herein shall constitute any waiver by IBank or the Corporation of any rights they possess against the Lender, and the Lender agrees that it will be liable and will promptly reimburse the trust fund for any payment made by IBank to Holder which, if such Lender had held the Guaranteed portion of the Loan, IBank would not be required to make.

## **B. Federal Requirements**

Since 2010, IBank's Small Business Lending Guarantee Program has received federal funding through the U.S. Department of the Treasury's Small Business Credit Initiative (SSBCI) Program to support small business lending in California. As stipulated in IBank's SBGLP Directives & Requirements Section 5006(c), FDCs are required to adhere to SSBCI rules and guidance when supporting a guarantee with federal funds.

IBank will keep FDCs informed on regulatory changes to the program. However, FDCs are encouraged to regularly visit the SSBCI website for most current federal directives and clarify questions with IBank:

 <http://www.treasury.gov/resource-center/sb-programs/Pages/summary-of-where-to-find-program-rules-for-the-ssbci.aspx>

Specifically, the FDCs should comply with the rules and guidelines listed in the following documents:

1. Small Business Jobs Act of 2010
2. Policy Guidelines
3. National Standards for Compliance and Oversight
4. Frequently Asked Questions

## **C. Corporation Regulations**

### **TITLE 1. CORPORATIONS DIVISION 3. CORPORATIONS FOR SPECIFIC PURPOSES PART 5. SMALL BUSINESSES CHAPTER 1. CALIFORNIA SMALL BUSIENSS FINANCIAL DEVELOPMENT CORPORATIONS**

14000. This chapter shall be known and may be cited as the California Small Business Financial Development Corporation Law.

14001. (a) It is the intent of the Legislature in enacting this chapter to promote the economic development of small businesses through the California Small Business Finance Center by making available capital, general management assistance, and other resources, including financial services, personnel, and business education to small business entrepreneurs, including women, veteran, and minority-owned businesses, for the purpose of promoting the health, safety, and social welfare of the citizens of California, to eliminate unemployment of the economically disadvantaged of the state, and to stimulate economic development and entrepreneurship.

(b) It is the further intent of the Legislature to provide a flexible means to mobilize and commit all available and potential resources in the various regions of the state to fulfill these objectives, including federal, state, and local public resources, and private debt and equity investment.

(c) It is the further intent of the Legislature that corporations operating pursuant to this law shall, to the maximum extent feasible, coordinate with other job and business development efforts within their region directed toward implementing the purpose of this chapter.

(d) It is the further intent of the Legislature to provide expanded resources allowing participation by small and emerging contractors in state public works contracts. Increased access to surety bonding resources will assist in supporting participation by those firms in public works contracts, and by stimulating increased participation by small firms, the state will benefit from increased competition and lower bid costs.

14002. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, this invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable.

14003. Unless the context otherwise requires, the definitions in this section shall govern the construction of this chapter.

(a) "Bank" means the California Infrastructure and Economic Development Bank.

(b) "Bank board" means the board of directors of the California Infrastructure and Economic Development Bank.

(c) "Board of directors" means the board of directors of the corporation.

(d) "California Small Business Board" means the advisory board established pursuant to Section 14004.1 for the purpose of advising on issues and programs affecting small business.

(e) "California Small Business Finance Center" means the governmental unit within the bank, which is located within the Governor's Office of Business and Economic Development, with the administrative responsibility for the programs and activities authorized pursuant to Section 8684.2 of the Government Code, the Small Business Financial Assistance Act of 2013 (Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code), and this chapter.

(f) "Corporation" means any nonprofit California small business financial development corporation created pursuant to this chapter, or pursuant to Chapter 1 (commencing with Section 32000) of Division 15.5 of the Financial Code.

(g) "Directives and requirements" means a document adopted by the bank board setting forth policy direction as well as key rules governing a particular subject area.

(h) "Executive director" means the executive director of the California Infrastructure and Economic Development Bank.

(i) "Expansion fund" means the California Small Business Expansion Fund authorized pursuant to Section 63089.5 of the Government Code.

(j) "Financial company" means banking organizations, including national banks and trust companies, savings and loan associations, certified community development financial institutions, microbusiness lenders, state insurance companies, mutual insurance companies, and other public and private banking, lending, retirement, and insurance organizations.

(k) "Financial institution" means regulated banking organizations, including national banks and trust companies authorized to conduct business in the state and state-chartered commercial banks, trust companies, credit unions, and savings and loan associations.

(l) "Financial product" means the type of financial assistance described in Section 63088.5 of the Government Code or that the California Small Business Finance Center or a small business financial development corporation is otherwise authorized to provide.

(m) "Loan committee" means a committee appointed by the board of directors of a corporation to determine the course of action on a loan application pursuant to Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code.

(n) "Microbusiness lender" means a microbusiness lender as defined in Section 13997.2 of the Government Code.

(o) "Program manager" means the manager of the California Small Business Finance Center as designated to this title by the executive director of the bank.

(p) "Trust fund" means the money from the expansion fund that is held in trust by a financial institution or financial company. A trust fund is not a deposit of state funds and is not subject to the requirements of Section 16506 of the Government Code.

(q) "Trust fund account" means an account within the trust fund that is either allocated to a particular corporation or shared by multiple corporations for the purpose of paying loan defaults and claims on bond guarantees or other financial products and program uses provided in this chapter.

14004. (a) The program manager shall do all of the following:

(1) Administer this chapter.

(2) Make recommendations to the executive director and the bank board on the approval or disapproval of the articles of incorporation. This determination shall be based upon the following:

(A) Review of the articles of incorporation and bylaws of the corporation to determine whether they contain the provisions required by this chapter and conform with the directives and requirements adopted by the bank board pursuant to this chapter.

(B) A determination as to whether the legislative intent expressed in Section 14001 shall be served by the proposed corporation.

(C) A determination as to whether the responsibility, character, and general fitness of the individuals who will manage the corporation are such as to command the confidence of the state and to warrant the belief that the business of the proposed corporation will be honestly and efficiently conducted in accordance with the intent and purpose of this chapter and that they include representatives of the financial and business community, as well as the economically disadvantaged.

(D) A determination by the program manager that there is significant need for a new corporation.

(3) Have the accounts of each corporation formed under this chapter examined and audited as of the close of business on June 30 of each year. Material examination exceptions that are not corrected by the corporation within a reasonable period of time may result in the suspension or termination of the corporation pursuant to Section

63089.3 of the Government Code.

(4) Have the portfolio of each corporation examined a minimum of once a year. Material examination exceptions that are not corrected by the corporation within a reasonable period of time may result in the suspension or termination of the corporation pursuant to Section 63089.3 of the Government Code.

(5) Review reports from the Department of Business Oversight and inform corporations as to what corrective action is required.

(6) Examine, or cause to be examined, at any reasonable time, all books, records, and documents of every kind, and the physical properties of a corporation. The inspection shall include the right to make copies, extracts, and search records.

(b) The program manager may attend and participate at corporation meetings. The program manager, or his or her designee, shall be an ex officio, nonvoting representative on the board of directors and loan committees of each corporation. The program manager shall meet through telecommunication or in person with the board of directors of each corporation at least once each fiscal year, commencing January 1, 2014.

14004.1. (a) The California Small Business Board is hereby continued and created as an advisory board to the California Infrastructure and Economic Development Bank Board, the executive director, and the program manager. The California Small Business Board may also advise the Governor and the Small Business Advocate regarding issues and programs affecting California's small business community, including, but not limited to, business innovation and expansion, export finance, state procurement, management and technical assistance, venture capital, and financial assistance.

(b) The California Small Business Board consists of the following membership:

(1) The Director of Finance or his or her designee.

(2) The Director of the Office of the Small Business Advocate or his or her designee.

(3) The Treasurer or his or her designee.

(4) A representative from two different corporations selected by the corporations.

(5) Four members appointed by the Governor, one of whom will serve as chair of the California Small Business Board, who are actively involved in the California small business community.

(6) Two persons actively involved in the business or agricultural communities, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules.

(7) Two Members of the Legislature, or their designees, one appointed by the Speaker of the Assembly and one appointed by the Senate Committee on Rules, so long as it does not conflict with their duties as legislators.

(c) The California Small Business Board shall advise the program manager on matters regarding this chapter and Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code.

(d) The public members of the California Small Business Board, at the discretion of the bank board, may be reimbursed per diem and travel expenses pursuant to state law.

14004.2. The bank board shall approve new corporations recommended by the program manager, based on an examination of each of the following:

(a) Review of the articles of incorporation and bylaws of the corporation to determine whether they contain the provisions required by this chapter and conform with the directives and requirements adopted by the bank board pursuant to this chapter.

(b) Determination as to whether the legislative intent expressed in Section 14001 will be served by the proposed corporation.

(c) Determination as to whether the responsibility, character, and general fitness of the individuals who will manage the corporation are able to command the confidence of the state and to warrant the belief that the business of the proposed corporation will be honestly and efficiently

conducted in accordance with the intent and purpose of this chapter and that they include representatives of the financial and business community, as well as the economically disadvantaged.

(d) Determination of the program manager that there is significant need for a new corporation.

14005. Upon approval by the bank board to become a corporation, an entity shall adopt or amend its articles of incorporation to comply with the following:

(a) The name of the corporation shall include the words "small business financial development corporation," except for those corporations formed pursuant to this chapter prior to 2002, which may also be called "small business development corporations," or those formed prior to 1985, which may also be called "rural or urban development corporations."

(b) The purposes for which the corporation is formed, which shall be those specified in Section 14001. This requirement shall not be deemed to preclude a statement of powers.

(c) A geographical description of the corporation's primary service area.

(d) The name and addresses of seven or more persons who are to act in the capacity of directors until the selection of their successors.

(e) That the corporation is organized pursuant to the California Small Business Financial Development Corporation Law.

14006. If the bank board concurs with the findings of the program manager pursuant to Section 14004, the bank board shall direct the program manager to approve the articles of incorporation and endorse the approval thereon and forward the same to the Secretary of State for his or her approval and filing. Likewise, the program manager shall review all amendments to the articles of incorporation to ensure consistency with the purposes of this chapter.

14007. (a) The corporation's existence as a small business financial development corporation begins upon the filing of the articles with the Secretary of State and continues perpetually, unless otherwise expressly provided for by law.

(b) If a corporation is terminated from participation in all programs, in order to continue its existence as a nonprofit corporation pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), the corporation shall amend its articles of incorporation in accordance with Chapter 8 (commencing with Section 5180) of Part 2 of Division 2 of Title 1 to remove the provisions required by Section 14005, including an amendment to remove the words "small business financial development corporation," "small business development corporation," or "rural or urban development corporation," as applicable, from the corporate name, and shall no longer be registered with the Secretary of State as a small business financial development corporation. A corporation shall not enjoy any of the benefits of a small business financial development corporation following termination.

14009. (a) Each corporation shall have provisions establishing a grievance procedure for employees, clients, or potential clients, to appeal a decision or obtain redress of an action done by the staff or loan committee of the corporation. The procedures shall be established in writing during the probationary period of a new corporation.

(b) The bylaws of the corporation shall authorize the removal of officers only by a two-thirds vote of the directors of the corporation.

14011. The Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of this title) applies to corporations formed under this chapter, except as to matters otherwise provided for in this chapter.

14012. For six months following the establishment of a corporation, commencing upon filing of the articles of incorporation with the Secretary of State, a corporation shall be on probation. While on probation, a corporation may be suspended if suspension is recommended by the program manager and affirmed by the executive director. This suspension is nonappealable and not subject to the procedures for suspension applicable to a corporation not on probation.

14013. The corporate powers of a corporation shall be exercised by its board of directors.

14014. The bank shall enter into a contract with each corporation that shall require that:

(a) A person may not serve on a corporation's board of directors who is not a resident of, or person conducting business in, the primary service area described in the articles of incorporation.

(b) A corporation's board of directors shall include representatives from all of the following:

(1) The financial community.

(2) The business community.

(3) The economically disadvantaged.

(c) The chief executive officer of a corporation, or his or her designee, is the only employee of the corporation who may serve on its board of directors.

(d) A person who has a financial interest related to a matter over which the board of directors has authority may not make, participate in making, or in any way attempt to influence that matter.

14015. If any director ceases to meet the qualifications established in Section 14014, he or she shall immediately vacate his or her position as a director and the position shall be deemed vacant.

14016. If any vacancy occurs in the elective membership of the board of directors through death, resignation, or otherwise, the remaining directors shall elect a person representing the appropriate category to fill the vacancy for the unexpired term.

14017. The bank board shall direct the program manager to establish new small business financial development corporations pursuant to the directives and requirements. The directives and requirements shall include steps to achieve a goal of ensuring that small businesses in all areas of the state would have reasonable access to the financial products authorized by Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code for which they are eligible.

14018. Every corporation shall provide for, and maintain a central staff to perform, all administrative requirements of the corporation, including all those functions required of a corporation by the contract and this chapter.

14019. Reasonable costs incurred by a corporation in the creation and maintenance of a central staff shall be paid to the corporation from state funds, including a portion of the interest earned on the expansion fund and the corporation's trust fund account, if the corporation has a trust fund account, otherwise, on the expansion fund.

14020. A corporation shall report to the program manager, or his or her designated representative, all statistical and other reports required by this chapter and Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code, including responses to audit reports, budget requirements, and other information relating to the establishment, monitoring, and suspension or termination of a corporation.

14021. A corporation shall make a report to the program manager, as required by Chapter 6 (commencing with Section 63088) of Division 1 of Title 6.7 of the Government Code.

14022. It shall be unlawful for a member of the bank board or for the executive director, program manager, or any person who is an officer, director, contractor, or employee of a corporation, or who is a member of a loan committee, or who is an employee of the California Infrastructure and Economic Development Bank to do any of the following:

(a) Ask for, consent, or agree to receive, any commission, emolument, gratuity, money, property, or thing of value for his or her own use, benefit, or personal advantage, for procuring or endeavoring to procure for any person, partnership, joint venture, association, or corporation, any loan, guarantee, financial, or other assistance from any corporation.

(b) Borrow money, property, or to benefit knowingly, directly or indirectly, from the use of the money, credit, or property of any corporation.

(c) Make, maintain, or attempt to make or maintain, a deposit of the funds of a corporation with any other corporation or association on condition, or with the understanding, expressed or implied, that the corporation or association receiving the deposit shall pay any money or make a loan or advance, directly or indirectly, to any person, partnership, joint venture, association, or corporation, other than to a corporation formed under this chapter.

14023. It shall be unlawful for a member of the bank board or for the executive director, program manager, or any person who is an officer or director of a corporation, or who is an employee of the California Infrastructure and Economic Development Bank to purchase or receive, or to be otherwise interested in the purchase or receipt, directly or indirectly, of any asset of a corporation, without paying to the corporation the fair market value of the asset at the time of the transaction.

14024. Violation of any provision of this article shall constitute a felony.



## **D. California Small Business Financial Assistance Act of 2013**

### **CALIFORNIA GOVERNMENT CODE CHAPTER 6 – SMALL BUSINESS FINANCIAL ASSISTANCE ACT OF 2013. ARTICLE 11. REPORTING**

#### **63089.97.**

Each corporation shall provide to the program manager, in a format prescribed by him or her, the following data and reports:

- (a) A summary of all outstanding loans, bonds, and other credit enhancements to which a corporation guarantee, as authorized by this chapter, is attached, on a schedule determined by the program manager.
- (b) A summary of all outstanding direct loans and other debt instruments made by a corporation, as authorized by this chapter, on a schedule determined by the program manager.
- (c) A summary of all outstanding other financial project obligations made by a corporation, as authorized by this chapter, on a schedule determined by the program manager.
- (d) Statement of economic interests from each designated person pursuant to Section 87302.
- (e) No later than July 31 of each fiscal year, commencing January 1, 2014, each of the following documents:
  - (1) A copy of the corporation board approved budget for the current fiscal year.
  - (2) Projected fiscal year summary of authorized program activities including direct loans, loan guarantees, bond guarantees, and other financial product activity supported by the expansion fund.
  - (3) A copy of the written plan of operation or strategic plan for the current fiscal year as approved by the corporations board of directors.
  - (4) A copy of the current and valid articles of incorporation and bylaws of the corporation with noted amendments from the prior fiscal year.
- (f) No later than October 31 of each year commencing January 1, 2014, a copy of the corporation's prior fiscal year audit, auditor findings, if any, and finding responses.
- (g) Any other statistical and other data, reports, or other information required by the directives and requirements or the program manager.